

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	) Academia Espiritu Santo
	) BEN 200516
Requests for Review of	) Funding Years 2013, 2014 and 2015
Decisions of the	) Form 471 Application Nos. 878350, 878350,
Universal Service Administrator by	) 963570, 1028896, 1038047
	) Funding Requests Nos. 2398588, 2398570,
Consortio Colegios Católicos	) 2618509, 2795192, 2826468
Arquidiócesis de San Juan and Its	)
Members	) Academia San Jose Elemental
	) BEN 205385
	) Funding Years 2013, 2014
	) Form 471 Application Nos. 989597, 989597,
	) 879168, 879168
	) Funding Request Nos. 2700172, 2700294,
	) 2399668, 2399669
	)
	) Colegio Angeles Custodios
	) BEN 200414
	) Funding Years 2013, 2014, 2015
	) Form 471 Application Nos. 1048573, 963416,
	) 878090, 878090
	) Funding Request Nos. 2863166, 2617522,
	) 2398269, 2398268
	)
	) Academia Santa Rosa
	) BEN 205528
	) Funding Years 2013, 2014, 2015
	) Form 471 Application Nos. 1029713, 964063,
	) 879925, 879925, 964063, 1031108
	) Funding Request Nos. 2797935, 2619703,
	) 2400578, 2400576, 2619732, 2803506
	)
	) Academia Santa Maria del Camino
	) BEN 200572
	) Funding Years 2013, 2014, 2015
	) Form 471 Application Nos. 9962854, 1029673,
	) 1029673, 879902, 879902
	) Funding Request Nos. 2615968, 2797775,
	) 2798120, 2400591, 2400592
	)
	) Colegio Beato Carlos Manuel Rodrigues
	) BEN 200577

- ) Funding Years 2013, 2014, 2015
- ) Form 471 Application Nos. 879909, 1029787,
- ) 1029787, 972586, 1029637
- ) Funding Request Nos. 2400550, 2809375,
- ) 2797701, 2647987, 2797701
- )
- ) Colegio Lourdes
- ) BEN 159181
- ) Funding Years 2013, 2014
- ) Form 471 Application Nos. 885051, 885051,
- ) 962592, 962592
- ) Funding Request Nos. 2409618, 2409617,
- ) 2615582, 2615626
- )
- ) Colegio Nuestra Senora de la Providencia
- ) BEN 200410
- ) Funding Years 2013, 2014, 2015
- ) Form 471 Application Nos. 878898, 878898,
- ) 962677, 1030156, 1022672, 1030142
- ) Funding Request Nos. 2399308, 2399309,
- ) 2615447, 2799703, 2775519, 2799660
- )
- ) Colegio Nuestra Senora de Lourdes
- ) BEN 200448
- ) Funding Years 2013, 2014, 2015
- ) Form 471 Application Nos. 885050, 885050,
- ) 964209, 1030817, 1028910
- ) Funding Request Nos. 2409629, 2409614,
- ) 2620175, 2802287, 2795364
- )
- ) Colegio Nuestra Senora del Carmen
- ) BEN 200725
- ) Funding Years 2013, 2014, 2015
- ) Form 471 Application Nos. 895299, 895299,
- ) 961505, 961505, 1043796, 1043817
- ) Funding Request Nos. 2433472, 2433471,
- ) 2612445, 2612476, 2847193, 2847256
- )
- ) Colegio Reina de Los Angeles
- ) BEN 200423
- ) Funding Years 2013, 2014, 2015
- ) Form 471 Application Nos. 894714, 894714,
- ) 963780, 963780, 1030100, 1030081
- ) Funding Request Nos. 2431883, 2431848,
- ) 2618726, 2618733, 2799505, 2799444
- )

- ) Colegio Sagrados Corazones 5-12
- ) BEN 200709
- ) Funding Years 2013, 2014, 2015
- ) Form 471 Application Nos. 892473, 987955,
- ) 987955, 987955, 987955, 1048610, 1044193
- ) Funding Request Nos. 2425568, 2695568,
- ) 2695629, 2695593, 2695642, 2863241,
- ) 2848273
- )
- ) Colegio San Vicente de Paul
- ) BEN 200313
- ) Funding Years 2013, 2014, 2015
- ) Form 471 Application Nos. 879187, 879187,
- ) 961838, 1022443, 1030118, 1030730
- ) Funding Request Nos. 2399656, 2399658,
- ) 2613325, 2774766, 2799581, 2803541
- )
- ) Superintendencia Escuelas Catolicas
- ) BEN 157738
- ) Funding Year 2013
- ) Form 471 Application Nos. 898587, 898587
- ) Funding Request Nos. 2447857, 2447856
- )
- ) Colegio de la Inmaculada Concepcion
- ) BEN 200293
- ) Funding Years 2013, 2014, 2015
- ) Form 471 Application Nos. 878452, 963802,
- ) 1028902
- ) Funding Request Nos. 2398688, 2618800,
- ) 2795324
- )
- ) Colegio Calasanz
- ) BEN 200450
- ) Funding Years 2013, 2014, 2015
- ) Form 471 Application Nos. 1051417, 964749,
- ) 878286, 878286
- ) Funding Request Nos. 2872261, 2622067,
- ) 2398557, 2398556
- )
- ) Colegio Nuestra Senora del Rosario
- ) BEN 200599
- ) Funding Years 2013, 2015
- ) Form 471 Application Nos. 878904, 1039066
- ) Funding Request Nos. 2399298, 2829801
- )
- )

- ) Colegio Maria Auxiliadora
- ) BEN 200291
- ) Funding Years 2013, 2014, 2015
- ) Form 471 Application Nos. 891887, 989988,
- ) 963539, 1029904, 1028897, 885110
- ) Funding Request Nos. 2424328, 2701196,
- ) 2617887, 2798743, 2795297, 2409675
- )
- ) Colegio Nuestra Senora de Altagracia
- ) BEN 200457
- ) Funding Years 2014, 2015
- ) Form 471 Application Nos. 1029631, 962543
- ) Funding Request Nos. 2797691, 2615147
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- ) Colegio San Gabriel para Ninos Sordos
- ) BEN 200461
- ) Funding Years 2013, 2014, 2015
- ) Form 471 Application Nos. 892501, 892501,
- ) 963756, 963756, 1028894
- ) Funding Request Nos. 2425613, 2425593,
- ) 2618609, 2618620, 2795177
- )
- ) Colegio Santa Clara
- ) BEN 159163
- ) Funding Years 2013, 2014, 2015
- ) Form 471 Application Nos. 879195, 962593,
- ) 1022107
- ) Funding Request Nos. 2399694, 2615579,
- ) 2773692
- )
- ) Colegio San Pedro Martir
- ) BEN 200708
- ) Funding Years 2013, 2014, 2015
- ) Form 471 Application Nos. 894101, 964381,
- ) 1029245
- ) Funding Request Nos. 2430121, 2620876,
- ) 2796038
- )
- ) Colegio San Juan Bosco
- ) BEN 201214
- ) Funding Years 2013, 2014, 2015
- ) Form 471 Application Nos. 1030917, 1029624,
- ) 972318, 879162, 879162
- ) Funding Request Nos. 2802710, 2797685,
- ) 2647257, 2399653, 2399652
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- ) Colegio San Jose
- ) BEN 200419
- ) Funding Years 2013, 2014, 2015
- ) Form 471 Application Nos. 879171, 989483,
- ) 1043687
- ) Funding Request Nos. 2399671, 2699813,
- ) 2846886
- )
- ) Colegio Santa Cruz
- ) BEN 200718
- ) Funding Years 2013, 2014, 2015
- ) Form 471 Application Nos. 879907, 879907,
- ) 968652, 968652, 1029190, 1030731
- ) Funding Request Nos. 2400547, 2400546,
- ) 2636510, 2636497, 2795895, 2801986
- )
- ) Colegio Santiago Apostol
- ) BEN 200637
- ) Funding Years 2013, 2014, 2015
- ) Form 471 Application Nos. 894712, 894712,
- ) 963995, 963995, 1044024
- ) Funding Request Nos. 2431870, 2431871,
- ) 2619603, 2619617, 2847738
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- ) Colegio Santa Maria del Camino
- ) BEN 159166
- ) Funding Years 2013, 2014, 2015
- ) Form 471 Application Nos. 879910, 964009,
- ) 1022258
- ) Funding Request Nos. 2400554, 2619398,
- ) 2774276
- )
- ) Colegio Nuestra Senora de Belen
- ) BEN 200411
- ) Funding Years 2013, 2014
- ) Form 471 Application Nos. 989292, 878321
- ) Funding Request Nos. 2699276, 2398554
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- ) Colegio Nuestra Senora de la Piedad
- ) BEN 200330
- ) Funding Years 2013, 2014, 2015
- ) Form 471 Application Nos. 1022965, 1024060,
- ) 979827, 892469
- ) Funding Request Nos. 2776230, 2779772,
- ) 2669908, 2425554
- )

ATT: Telecommunications Access Policy Division, Wireline Competition Bureau

## **REQUEST FOR REVIEW AND WAIVER**

Consortio Colegios Catolicos Arquidiócesis de San Juan (hereinafter, the “Consortium”) and its members, through counsel and pursuant to Section 54.719(b) of the Federal Communications Commission’s (“FCC” or “Commission”) rules,<sup>1</sup> hereby petitions the Commission’s Wireline Competition Bureau for review of adverse decisions by the Universal Service Administrative Company (“USAC”) with respect to the above-referenced Funding Request Numbers (“FRNs”) for Funding Years 2013, 2014 and 2015 filed by Consortium members. In the alternative, the Consortium and its members respectfully request a waiver of the relevant Commissions rules to avoid an unfair and unduly burdensome result that threatens the educational opportunity of many students in Puerto Rico.<sup>2</sup>

### **I. BACKGROUND**

The Consortium represents thirty-six private Catholic schools in the Commonwealth of Puerto Rico. The Consortium members have an estimated combined enrollment of almost 11,000 students in grades K through 12.

On August 28, 2012, the Consortium filed FCC Form 470 # 648350001042978 for Funding Year 2013 soliciting bids for E-Rate services on behalf of its members. The Form 470 is attached hereto as Exhibit 1. The Consortium checked the box indicating that no Request for Proposals (“RFP”) had been released and that it did not intend to do so. The FCC Form 470 # 648350001042978 served as the basis for a multi-year contract, as permitted by the program

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<sup>1</sup> 47 C.F.R. § 54.719(b).

<sup>2</sup> 47 C.F.R. § 1.3.

rules. After following the competitive bidding rules and the requisite 28-day period, Consortium members selected service providers based on the most cost-effective bids for the specified services and the relevant FCC Forms 471 were filed.<sup>3</sup> Thereafter, USAC either funded or committed to fund the FRNs at issue.

In early 2017, USAC sent an Information Request to the Consortium in connection with Funding Year 2016. Subsequently, USAC sent an Intent to Deny Letter to the Consortium also in connection with Funding Year 2016. Those documents, and the responses from the Consortium, are attached as Exhibit 2. As the correspondence between USAC and the Consortium indicates, those communications relate to Forms 470 #160029101, 161058971 and 161058750 for Funding Year 2016.

Thereafter, USAC started sending Notification of Commitment Adjustment Letters (“COMADs”) to Consortium members. The COMADs rescinded the funding commitments for Funding Years 2013, 2014 and 2015 in full, and sought to recover funds already disbursed. The COMADs state that the funds are being rescinded because “...you did not check the box [in FCC Form 470] to indicate that you did or intend to release a Request for Proposal (RFP) for the products and/or services that you sought” and that “It was determined that you did issue a RFP.” The COMADs then added:

Specifically, during a Selective Review you indicated an RFP was in fact issued and one was provided. The RFP released describes the project undertaken and contains details to inform potential bidders of the scope, location, and any other requirements for the project and services requested. FCC rules require applicants to submit a complete description of services they seek so that it may be posted for competing service providers to evaluate and formulate bids. The applicants FCC Form 470 should inform potential bidders if there is, or is likely to be, an RFP containing specific details related to particular services indicated on the form to enable all potential bidders to reasonably determine the needs of the applicant. Since you failed to inform potential service providers that an RFP was

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<sup>3</sup> The service providers include A New Vision in Educational Services & Materials (NEVESEM) for Internet and Internal Connections, and Puerto Rico Telephone Company, Inc. for Telecommunications Services.

available for the products and/or services requested, you did not provide sufficient level of details to allow potential service providers an opportunity to formulate bids.

For all FRNs for which COMADs were received, the Consortium and its members filed appeals with USAC as follow:

- Appeal dated May 19, 2017 – Academia Espiritu Santo (BEN 200516).
- Appeal dated May 22, 2017 – Academia San Jose Elemental (BEN 205385).
- Appeal dated May 26, 2017 – Colegio Angeles Custodios (BEN 200414), Academia Santa Rosa (BEN 205528), Academia Santa Maria del Camino (BEN 200572), Colegio Beato Carlos Manuel Rodrigues (BEN 200577), Colegio Lourdes (BEN 159181) and Colegio Nuestra Señora de la Providencia (BEN 200410).
- Appeal dated May 30, 2017 – Colegio Nuestra Señora de Lourdes (BEN 200448), Colegio Nuestra Señora del Carmen (BEN 200725), Colegio Reina de Los Angeles (BEN 200423) and Colegio Sagrados Corazones (BEN 200709).
- Appeal dated June 5, 2017 – Colegio San Vicente de Paul (BEN 200313) and Superintendencia Escuelas Catolicas Arquidiocesis de San Juan (BEN 157738).

In letters dated June 15 and 16, 2017, USAC issued decisions using exactly the same language as it did in the COMADs and denying the appeals without any discussion (or even a cursory mention) of any of the arguments raised by the Consortium and its members on appeal. For sake of simplicity, this Request for Review will refer to the funding requests for which COMADs were received and appealed as the “Group One Applications.” Copies of the above-referenced appeals for the Group One Applications are attached hereto as Exhibit 3.

A number of Consortium members did not receive COMADs from USAC but did receive Demand Payment Letters. This Request for Review will refer to these funding requests as the “Group Two Applications.” These members learned that the funding commitments had been rescinded because they received Demand Payment Letters. On June 29, 2017, the Consortium and its members filed an appeal with USAC regarding the Group Two Applications explaining that: (1) the members did not receive COMADs; (2) they learned about the rescission of the



funding requests because they received Demand Payment Letters; (3) the members did not know the reason why they did not receive the COMADs or if the COMADs were in fact sent and, if they were, whether they were sent to the correct address; (4) the members searched their records and files where they keep correspondence from USAC and were unable to find COMADs for the funding requests referenced in the Demand Payment Letters; (5) the fact that the members received the Demand Payment Letters demonstrated that the contact information on file with USAC was correct; and (6) had the members received the COMADS, they would have availed themselves of their appeal rights under the FCC's rules. The members then took the opportunity to address USAC's concerns, as stated in the Demand Payment Letters received. The appeal on the Group Two Applications is attached hereto as Exhibit 4. USAC denied the appeal and indicated the members could appeal to the FCC within sixty days.

For the reasons stated below, USAC erred in denying the appeals of the Group One Applications and the Group Two Applications. The Consortium and its members respectfully request that the Commission reverse USAC's decisions. Alternatively, the FCC should grant a waiver of the relevant Commissions rules to avoid an unfair and unduly burdensome result that threatens the educational opportunity of many students in Puerto Rico.

**II. The "Draft Notice" was not a Request for Proposals, was not used in the selection process, and could not have compromised the integrity of the competitive bidding process.**

The offense cited by USAC as the reason for rescinding the funding commitments and seeking recovery of millions of dollars in E-Rate funding is that the draft document titled "Notice to the Vendors Interested in Submitting a Proposal" (hereinafter, the "Draft Notice") constituted an RFP but the Consortium failed to check the box in FCC Form 470 to indicate that an RFP had been or would be released. Thus, the critical questions are: (a) did the Draft Notice

constitute an RFP despite the fact that the Consortium did not use it as an RFP or in the selection process and, if the answer is in the affirmative, (b) whether existence of the Draft Notice could have compromised the competitive bidding process. As explained below, the answer to both questions is “no” and, therefore, USAC erred when it issued the COMADs on the Group One Applications, when it issued Demand Payment Letters on the Group Two Applications, and when it denied the appeals.

The Draft Notice was originally intended to serve as a handout that would include the same information contained in the Form 470 in a user-friendly format to facilitate, if needed, conversations with service providers interested in visiting with Consortium personnel. The Consortium, however, did not succeed in finalizing the document to make it consistent with its original objective, a fact that the Consortium informed USAC in its responses and appeals. As the Consortium explained to USAC, the Draft Notice was “written years ago,” included “services which are no longer covered by E-Rate funding,” and “due to changes in personnel in the Consortium and lack of time” ... “no comprehensive revision was made.”<sup>4</sup> In other words, this was a document “in progress” that was not ready for use in any way, shape or form. The Consortium is unable to ascertain if the Draft Notice was actually shared with any potential bidders and, if so, how it was shared. What the Consortium is certain about, however, is that it did not use—nor did it intend to use—the Draft Notice as an RFP and, therefore, it believed it was correct to check the “no RFP” box in FCC Form 470. There was no hidden agenda behind the Draft Notice, no intent to favor some bidders to the detriment of others, and no scheme to

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<sup>4</sup> USAC Information Request re FY 2016 and Responses, Exhibit 2, page 1.

violate the Commission's rules or policies. This is critical information that USAC disregarded on appeal.<sup>5</sup>

Even if it was appropriate for USAC to have categorized the Draft Notice, as a factual and/or legal matter, as an RFP – which it was not – the Draft Notice could not have compromised the competitive bidding process because the Consortium did not require potential bidders to comply with anything other than the information in FCC Form 470. As the Consortium explained to USAC: "...the RFP was simply used as a tool for the service providers *but was not used in any capacity in the selection process.*"<sup>6</sup> The phrase "*not being used in any capacity in the selection process*" means that the Consortium's selection committee did not use the information in the Draft Notice to evaluate proposals submitted in response to FCC Form 470. Not only did the Consortium not use the Draft Notice to compromise the competitive bidding process, but also it took steps to ensure that all interested bidders had an opportunity to have access to the same information. As the Consortium explained to USAC:

We met with four competing companies that showed interest in submitting bids for Internet Service and Internal Connections Service to the Consortium members. All four companies were given equal time and attention in answering their questions about the eligible services required and any question pertaining to an individual school was addressed by calling the particular school or giving the contact information necessary for the corresponding school. All four companies were satisfied with the results from the meetings held on Wednesday, March 16, 2016 and all four companies left after answering their questions to prepare their respective bid proposals. All four companies submitted bids to the Consortium on or before March 29, 2016 and all four submitted bids were accepted and considered for evaluation. *At NO time was the RFP used to restrict or curtail the interested companies from submitting qualifying bids.*"<sup>7</sup>

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<sup>5</sup> It should be noted that the Consortium referred to the Draft Notice as an "RFP" simply because that is how USAC referred to the document in its questions. The Consortium's responses were not drafted or reviewed by any attorneys. Therefore, the Commission should not make any negative inferences from the use of this term in the responses to USAC.

<sup>6</sup> USAC Information Request re FY 2016 and Responses, Exhibit 2, page 2 (emphasis added).

<sup>7</sup> *Id.*, page 7 (emphasis added).

It is evident from the above information that the Draft Notice played no role in the evaluation process or the competitive bidding process. The Consortium did not give or attempt to give preferential treatment to some service providers to the detriment of others, and USAC has not provided any evidence that would suggest otherwise. The existence of the Draft Notice could not have compromised the integrity of the competitive bidding process because the document was not used to evaluate proposals.

**III. The “Draft Notice” did not compromise the integrity of the competitive bidding process.**

As the Consortium noted in its responses and appeals to USAC, the Consortium established a five-person committee composed of members of the Superintendence of Catholic Schools of the Archdiocese of San Juan and several of its member schools. All proposals were evaluated by the committee using the criteria recommended by USAC of prior experience, school individual approach, technical capabilities, educational experience and price, with price being the overriding criteria. All interested bidders were treated equally and fairly. There is no evidence of an improper relationship with any service provider or any attempt by Consortium personnel to undermine the Commission’s policies, rules and procedures. In fact, it should be noted that USAC did ask the Consortium if it had received assistance from a service provider during the competitive bidding process for Funding Year 2016 and USAC was satisfied with the Consortium’s response because USAC has not alleged that the Consortium had an inappropriate relationship with any service providers during the competitive process in question.<sup>8</sup> In addition,

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<sup>8</sup> See *Id.*, page 2 (stating that “Neither NEVESEM or any of the other prospective bidders provided any assistance in the filling of FCC forms or in the bidding process with the exception of submitting qualified bids on or before the deadline.”).

there is no evidence of waste, fraud or abuse by the Consortium or its members. In sum, it is evidence that the competitive bidding process for the Funding Years in question was not compromised.

**IV. As a matter of due process, USAC erred when it rescinded applications for Funding Years 2013, 2014 and 2015 without notice.**

The FRNs at issue in the appeals to USAC were submitted pursuant to FCC Form 470 # 648350001042978 filed on August 28, 2012, for Funding Year 2013. This Form 470 then formed the basis for multi-year contracts for Funding Years 2014 and 2015. However, it is evident from the face of USAC's questions and the Consortium's responses that USAC's inquiry related to FCC Forms 470 #160029101, 161058971 and 161058750 for Funding Year 2016. *See* Exhibit 2. The competitive bidding process for Funding Year 2013 was different from the one for Funding Year 2016. USAC should not be permitted to impute alleged rule violations in connection with Funding Year 2016 to the Applicants' FRNs for Funding Years 2013, 2014 or 2015 because those were two separate competitive processes. It is a denial of due process for USAC to deny FRNs associated with an FCC Form 470 that is unrelated to the FCC Form 470 that USAC inquired about because the Consortium did not have notice of what USAC was investigating.

As the D.C. Circuit has held, "[t]raditional concepts of due process incorporated into administrative law preclude an agency from penalizing a private party for violating a rule without first providing adequate notice of the substance of the rule."<sup>9</sup> How could the Consortium or its members have learned that the funding requests for Funding Years 2013, 2014 and 2015 – most of which had already been funded – were in jeopardy if USAC's Information Request asked only about Funding Year 2016 – a totally different Funding Year subject to a different

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<sup>9</sup> *Satellite Broad. Co. v. FCC*, 824 F.2d 1, 3 (D.C. Cir. 1987).

competitive bidding process? This is not fair to the Consortium, its members, or the students they serve, and it is not how the Commission conducts business. For this reason alone, the Commission should reverse USAC's denials and instruct them to reinstate the applications for further processing. Should USAC have questions specific to Funding Years 2013, 2014 and 2015, it should ask those questions and give the Consortium and its members a meaningful opportunity to respond.

**V. In the unlikely event the Commission finds the Draft Notice constituted an RFP that compromised the competitive bidding process, the Consortium and its members respectfully request a limited waiver of the Commission's rules.**

If the Commission were to find that the "Draft Notice" did constitute an RFP and that the existence of such Draft Notice compromised the competitive bidding process because the Consortium did not check the RFP box in FCC Form 470, the Consortium and its members respectfully request for a limited waiver of section 54.503 of the Commission's rules.<sup>10</sup>

The Commission's rules expressly provide that the Commission may waive any provision of its rules "if good cause therefor is shown."<sup>11</sup> The Commission "may exercise its discretion to waive a rule where particular facts would make strict compliance inconsistent with the public interest."<sup>12</sup> It is well established that the Commission will waive its rules in specific cases only if it determines, after careful consideration of all pertinent factors, that such a grant would serve the public interest without undermining the policy which the rule in question is intended to serve.<sup>13</sup>

In prior similar cases, the Commission has found it is in the public interest to grant a waiver in situations in which applicants have released an RFP but failed to note on the FCC

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<sup>10</sup> 47 C.F.R. § 54.503. *See also* 47 C.F.R. § 1.3 ("The provisions of this chapter may be suspended, revoked, amended, or waived for good cause shown, in whole or in part, at any time by the Commission, subject to the provisions of the Administrative Procedure Act and the provisions of this chapter. Any provision of the rules may be waived by the Commission on its own motion or on petition if good cause therefor is shown.").

<sup>11</sup> 47 C.F.R. § 1.3.

<sup>12</sup> *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990), *citing* *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969).

<sup>13</sup> *See* *WAIT Radio*, 418 F.2d at 1157.

Form 470 that an RFP had been issued or that one would be issued. For instance, in *Hillsboro Independent School District*, USAC had denied four of Hillsboro's funding requests because it failed to inform bidders that an RFP was issued.<sup>14</sup> The Commission stated that it had previously found that "the FCC Form 470 is the only 'posting' necessary to fulfill the Commission's competitive bidding requirement," and found that the FCC Forms 470 at issue "contained sufficient information to allow service providers to bid on the services sought."<sup>15</sup> In addition, the Commission added that "any service provider that might have received the one page long RFP would not have had more information than a service provider that did not receive the RFP."<sup>16</sup> Finding "no indication in the record that the competitive bidding process was harmed" and "no evidence of waste, fraud or abuse, misuse of funds, or a failure to adhere to core program requirements," the Commission granted a limited waiver of its requirements to enable USAC to continue to process the applications.<sup>17</sup> Although the facts in the Hillsboro decision and the facts in the instant case are not identical, they similarly reflect the Commission's policy of looking at the ultimate issue: whether the competitive process was compromised. The Commission should grant a limited waiver in this case like it did in *Hillsboro* because in both instances: (a) the FCC Form 470 contained sufficient information to allow service providers to bid on the services sought; (b) there is no indication in the record that the competitive bidding process was harmed; and (c) there is no evidence of waste, fraud or abuse, misuse of funds, or a failure to adhere to core program requirements.

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<sup>14</sup> *Hillsboro Independent School District*, 23 FCC Rcd 15424 (2008).

<sup>15</sup> *Id.*, ¶ 10.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*; see also *Northeast Arizona Technological Institute of Vocational Education*, 27 FCC Rcd 2266 (2012) (granting a waiver of the rules where school failed to correctly indicate on its FCC Form 470 that it had issued an RFP, but the FCC Form 470 contained enough detail for service providers to identify the desired services and to formulate bids and there was no evidence of waste, fraud or abuse in the record.); *Riverdale Unified School District Riverdale*, 26 FCC Rcd 11207 (2011) (granting an Application for Review on the merits where "all bidders were on a level playing field despite the petitioners' failure to correctly indicate on their FCC Forms 470 whether they had issued an RFP.").

The instant case is also similar to the facts in other cases where the Commission has found it appropriate to grant limited waivers. In *Ramirez Common School District*, USAC denied the FCC Form 471 application on the ground that Ramirez violated the Commission's competitive bidding rules because it issued an RFP, despite having indicated on its FCC Form 470 that no RFP existed.<sup>18</sup> In its request for review, Ramirez stated that its FCC Form 470 was the RFP and that the FCC Form 470 contained sufficient information for service providers to submit bids. The Commission found that although the applicant "violated E-rate program rules by failing to indicate on its FCC Form 470 that it planned to issue an RFP for the underlying funding requests," a limited waiver of section 54.503 of the Commission's rules was in the public interest because the applicant's FCC Form 470 contained "enough detail for service providers to identify the desired services and to formulate bids."<sup>19</sup> In the instant case, even if the Commission were to find there was a violation of the program rules, the Consortium's underlying FCC Form 470 contained sufficient detail for service providers to formulate bids and the competitive bidding process was not compromised.

In *Adams County Order*, the Commission granted relief to 72 schools and libraries finding that the reasons for which USAC denied their applications did not warrant the rejection of the applications because: (a) the appeals did not involve a misuse of funds; and (b) under the circumstances at issue, rigid adherence to procedural rules and requirements did not promote the goal of ensuring access to discounted telecommunications and information services to schools

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<sup>18</sup> *Ramirez Common School District*, 26 FCC Rcd 8430 (2011).

<sup>19</sup> *Id.*, ¶ 7. Similarly, in *Approach Learning and Assessment Centers*, the Commission granted a Request for Review by several applicants finding that, "despite petitioners' failure to correctly indicate on the Forms 470 whether they had issued an RFP, we find that all bidders were on a level playing field" and that it appeared that "all interested bidders also had access to whatever additional information petitioners provided in the auxiliary documents." 23 FCC Rcd 15510 (2008).



and libraries and, therefore, did not serve the public interest.<sup>20</sup> The same considerations present in the *Adams County Order* are present here: there is no misuse of funds, rigid adherence to procedures rules and requirements will not promote the goal of the program and, in fact, would frustrate those goals. For these reasons, the Consortium and its members respectfully request a limited waiver of its rules.

Finally, denial of this Request for Review and Waiver is not in the public interest and would create undue hardship on the Consortium and its members. The requests for repayment of E-Rate funds disbursed over three Funding Years for all of the members of the Consortium will strain the extremely limited financial resources of the schools. The Consortium is aware of at least one member school which would have to close its doors if it is required to return disbursed funds to USAC. Others will not be able to continue to participate in the program to the detriment of students who need the E-Rate program the most. The Commission only need to look at press reports to understand the severity of the economic situation in Puerto Rico. On May 3, 2017, after a painful recession of eleven years, the Commonwealth of Puerto Rico, with approximately \$123 billion in debt and pension obligations that far exceed the \$18 billion bankruptcy filed by Detroit in 2013, sought what is essentially bankruptcy relief under Title III of the Puerto Rico Oversight, Management and Economic Stability Act (“PROMESA”).<sup>21</sup> This extraordinary step evidences the fiscal emergency that renders Puerto Rico unable to provide its citizens effective services, while suffering the outmigration of residents and businesses which further impacts the local economy. The Consortium’s members do not receive funding from the Puerto Rico government, as they are private institutions, but the existing economic conditions have an impact

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<sup>20</sup> *Adams County School District 14, Commerce City, Colorado, et al*, 22 FCC Rcd 6019 ¶ 10 (2007) (“*Adams County Order*”).

<sup>21</sup> *In re Commonwealth of Puerto Rico, Debtor*, Title III, Case No. 17-cv-01578 (May 3, 2017).

in all sectors of the economy, including private schools. These E-rate funds are needed now more than ever for the benefit of the students.

## **VI. Conclusion**

For the reasons stated above, the Consortium and its members respectfully request that the COMADs be rescinded and the Group One and Group Two Applications be reinstated for further processing by USAC. In the event the Commission finds that the Draft Notice did constitute an RFP and resulted in a violation of the competitive bidding rules, the Consortium and its members respectfully ask for a limited waiver of the Commission's rules. Grant of a waiver in these circumstances is consistent with Commission precedent, will not undermine the E-Rate program rules or their purpose, and would be consistent with due process and notions of fair play and justice.

Respectfully submitted,

**CONSORCIO COLEGIOS CATOLICOS  
ARQUIDIOCESIS DE SAN JUAN  
ACADEMIA ESPIRITU SANTO  
ACADEMIA SAN JOSE ELEMENTAL  
ACADEMIA SANTA MARIA DEL CAMINO  
ACADEMIA SANTA ROSA  
COLEGIO ANGELES CUSTODIOS  
COLEGIO BEATO CARLOS MANUEL  
RODRIGUES  
COLEGIO CALASANZ  
COLEGIO DE LA INMACULADA CONCEPCION  
COLEGIO LOURDES  
COLEGIO MARIA AUXILIADORA  
COLEGIO NUESTRA SENORA DE  
ALTAGRACIA  
COLEGIO NUESTRA SENORA DE BELEN  
COLEGIO NUESTRA SENORA DE LA PIEDAD  
COLEGIO NUESTRA SENORA DEL ROSARIO  
COLEGIO NUESTRA SEÑORA DE LA  
PROVIDENCIA  
COLEGIO NUESTRA SEÑORA DE LOURDES**

**COLEGIO NUESTRA SEÑORA DEL CARMEN  
COLEGIO REINA DE LOS ANGELES  
COLEGIO SAGRADOS CORAZONES  
COLEGIO SAN GABRIEL PARA NINOS SORDOS  
COLEGIO SAN JOSE  
COLEGIO SAN JUAN BOSCO  
COLEGIO SAN PEDRO MARTIR  
COLEGIO SAN VICENTE DE PAUL  
COLEGIO SANTA CLARA  
COLEGIO SANTA CRUZ  
COLEGIO SANTA MARIA DEL CAMINO  
COLEGIO SANTIAGO APOSTOL  
SUPERINTENDENCIA ESCUELAS  
CATÓLICAS ARQUIDIÓCESIS DE SAN  
JUAN**

By: /s/ Edgar Class

Edgar Class  
Wiley Rein LLP  
1776 K Street NW  
Washington, DC 20006  
Tel: (202) 719-7504  
Email: [eclass@wileyrein.com](mailto:eclass@wileyrein.com)

*Their Attorney*

August 14, 2017

Exhibit 1	FCC Form 470 # 648350001042978 for Funding Year 2013
Exhibit 2	USAC Information Request re FY 2016 and Responses
Exhibit 3	Appeals for Group One Applications
Exhibit 4	Appeal for Group Two Applications

# **EXHIBIT 1**

## Schools and Libraries Universal Service Description of Services Requested and Certification Form 470

**Estimated Average Burden Hours per Response 3 hours**

This form is designed to help you describe the eligible services you seek so that this data can be posted on the Fund Administrator Internet Site and interested service providers can identify you as a potential customer and compete to serve you.

**Please read instructions before beginning this form.**

Form 470 Application Number: 648350001042978	Applicant's Form Identifier: 2013-TEL-INT
Application Status: CERTIFIED	Posting Date: 08/28/2012
Allowable Contract Date: 09/25/2012	Certification Received Date: 08/28/2012

### Block 1: Applicant Address and Information

**1** Name of Applicant:  
CONSORCIO COLEGIOS CATOLICOS ARQU DIOCESIS DE SAN JUAN

**2** Funding Year: 2013 (Funding years run from July 1 through the following June 30)

**3** Entity Number: 16020045

**4a** Street Address, P.O.Box, or Route Number:  
789-B CALLE JAIME DREW URB. LOS MAESTROS

City: SAN JUAN State: PR Zip Code: 00923 -2400

**4b** Telephone Number: (787) 731 -6100

**4c** Fax Number:

**5a** Eligible Entities That Will Receive Services:  
Check the ONE choice in **5a** that best describes the eligible entities that will receive the services described in this form. You will then list in Item **15** the entity/entities that will pay the bills for these services.

☐ Individual School (individual public or non-public school)

☐ School District (LEA; public or non-public [e.g., diocesan] local district representing multiple schools)

☐ Library (including library system, library outlet/branch or library consortium as defined under LSTA)

☒ Consortium (intermediate service agencies, states, state networks, consortia of schools and/or libraries)

☐ Statewide application for (enter 2-letter state code)  
representing (check all that apply)

☐ All public schools/districts in the state

☐ All non-public schools in the state

☐ All libraries in the state

**5b** Recipient(s) of Services - Check all that apply:

☒ Private ☐ Public ☐ Charter

☐ Tribal ☐ Head Start ☐ State Agency

**5c** Number of eligible entities for which services are sought: 62

### Block 1: Applicant Address and Information (continued)

**6a** Contact Person's Name:  
JACQUELINE DIAZ

If the Contact Person's Street Address is the same as **Item 4a** above, check here. ☐ If not, complete Item 6b.

**6b** Street Address, P.O.Box, or Route Number:  
NOTE: USAC will use this address to mail correspondence  
789-B CALLE JAIME DREW URB. LOS MAESTROS

City: SAN JUAN State: PR Zip Code: 00923 -2400

Check the box next to your preferred mode of contact and provide your contact information. One box **MUST** be checked and an entry provided.

☐ **6c** Telephone Number: (787) 731 -6100

☐ **6d** Fax Number: (787) 790 -6920

☒ **6e** E-Mail Address: ERATE.SEC@GMAIL.COM

Re-enter E-mail Address: ERATE.SEC@GMAIL.COM

**If a consultant is assisting you with your application process, please complete Item 7 below**

**7** Consultant Name:  
Name of Consultant's Employer:  
Consultant's Street Address:

City: State: Zip Code:

Consultant's Telephone Number: Ext.

Consultant's Fax Number:

Consultant's E-mail Address:

Re-enter E-mail Address:

Consultant Registration Number:

Entity Number 16020045	Applicant's Form Identifier 2013-TEL-INT
Contact Person JACQUELINE DIAZ	Phone Number (787) 731-6100

### Block 2: Summary Description of Needs or Services Requested

8 Telecommunication Services	
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If you check YES to indicate you have a Request for Proposals (RFP) that specifies the services you are seeking, your RFP must be available to all interested bidders for at least 28 days. If your RFP is not available to all interested bidders, or if you check NO and you have or intend to have an RFP, you risk denial of your funding requests.

- a ☐ YES, I have released or intend to release an RFP for these services. It is available or will become available on the Internet at:  
or via (check one) ☐ the contact person in Item 6 or ☐ the contact person listed in Item 12

Your RFP Identifier:

- b ☒ NO, I have not released and do not intend to release an RFP for these services.

Service	Quantity and/or Capacity
CENTREX	SCHOOLS
MAINTENANCE SERVICES	SCHOOLS
FAX MACHINE LINE	SCHOOLS
DIGITAL TRANSMISSION SERVICE	SCHOOLS
LOCAL MEASURED TELEPHONE SERVICE	SCHOOLS
CELLULAR SERVICE	SCHOOLS
TELEPHONE SERVICE	SCHOOLS
LONG DISTANCE SERVICE	SCHOOLS
WAN SERVICE	SCHOOLS

#### 9 Internet Access

If you check YES to indicate you have a Request for Proposals (RFP) that specifies the services you are seeking, your RFP must be available to all interested bidders for at least 28 days. If your RFP is not available to all interested bidders, or if you check NO and you have or intend to have an RFP, you risk denial of your funding requests.

- a ☐ YES, I have released or intend to release an RFP for these services. It is available or will become available on the Internet at:  
or via (check one) ☐ the contact person in Item 6 or ☐ the contact person listed in Item 12

Your RFP Identifier:

- b ☒ NO, I have not released and do not intend to release an RFP for these services.

Whether you check YES or NO, you must list below the Internet Access services you seek. Specify each service (e.g., monthly Internet service) and quantity and/or capacity (e.g., for 500 users).

Service	Quantity and/or Capacity
MONTHLY BROADBAND INTERNET SERVICE	SCHOOLS
WEB HOSTING	SCHOOLS
EMAIL SERVICE	SCHOOLS
FIREWALL SERVICES	SCHOOLS
MAINTENANCE SERVICE	SCHOOLS
INTERNET INSTALLATION AND SETUP	SCHOOLS
ON PREMISE EQUIPMENT	SCHOOLS
WAN SERVICE	SCHOOLS
DOMAIN NAME REGISTRATION	SCHOOLS
BASIC INSTALLATION INSTRUCTION TRAINING	SCHOOLS
CONTENT FILTERING SERVICE	SCHOOLS
DISTANCE LEARNING AND VIDEO CONFERENCING	SCHOOLS

<b>Entity Number</b> 16020045	<b>Applicant's Form Identifier</b> 2013-TEL-INT
<b>Contact Person</b> JACQUELINE DIAZ	<b>Phone Number</b> (787) 731-6100

**10 Internal Connections Other Than Basic Maintenance**

*If you check YES to indicate you have a Request for Proposals (RFP) that specifies the services you are seeking, your RFP must be available to all interested bidders for at least 28 days. If your RFP is not available to all interested bidders, or if you check NO and you have or intend to have an RFP, you risk denial of your funding requests.*

**a** ☐ YES, I have released or intend to release an RFP for these services. It is available or will become available on the Internet at:  
 or via (check one) ☐ the contact person in Item 6 or ☐ the contact person listed in Item 12  
 Your RFP Identifier:

**b** ☒ NO, I have not released and do not intend to release an RFP for these services.

Whether you check YES or NO, you must list below the Internal Connections services you seek. Specify each service (e.g., a router, hub and cabling) and quantity and/or capacity (e.g., connecting 1 classroom of 30 students).

Service	Quantity and/or Capacity
INTERNAL WIRING	SCHOOLS
FIREWALL SERVERS	SCHOOLS
DNS SERVERS	SCHOOLS
ROUTERS	SCHOOLS
SWITCHES	SCHOOLS
UPS	SCHOOLS
CLIENT ACCESS LICENCES	SCHOOLS
NETWORK OPERATING SYSTEMS	SCHOOLS
SWITCHBOARDS	SCHOOLS
SYSTEM UPGRADES	SCHOOLS
VIDEO/VOICE OVER IP	SCHOOLS
LAN / WAN	SCHOOLS
E-MAIL SOFTWARE	SCHOOLS
DESIGN AND DOCUMENTATION SERVICES	SCHOOLS
INSTALLATION SERVICES	SCHOOLS
VIDEO INTERFACE CARDS	SCHOOLS
SERVER AND ROUTER NETWORK INTERFACE CARDS	SCHOOLS
CABLING / CONNECTORS	SCHOOLS
CIRCUIT CARDS / COMPONENTS	SCHOOLS
DATA DISTRIBUTION	SCHOOLS
DATA PROTECTIONS	SCHOOLS
INTERFACE / GATEWAYS AND ANTENNAS	SCHOOLS
STORAGE DEVICES	SCHOOLS
TELEPHONE COMPONENTS	SCHOOLS
VIDEO COMPONENTS	SCHOOLS
RACKS AND CAB NETS	SCHOOLS
WIRELESS LAN ACCESS POINTS	SCHOOLS
WIRELESS LAN CONTROLLERS	SCHOOLS
VIDEO CONFERENCE EQUIPMENT	SCHOOLS
VIDEO CONFERENCE CONTROLLERS	SCHOOLS

**11 Basic Maintenance of Internal Connections**

*If you check YES to indicate you have a Request for Proposals (RFP) that specifies the services you are seeking, your RFP must be available to all interested bidders for at least 28 days. If your RFP is not available to all interested bidders, or if you check NO and you have or intend to have an RFP, you risk denial of your funding requests.*

**a** ☐ YES, I have released or intend to release an RFP for these services. It is available or will become available on the Internet at:  
 or via (check one) ☐ the contact person in Item 6 or ☐ the contact person listed in Item 12  
 Your RFP Identifier:

**b** ☒ NO, I have not released and do not intend to release an RFP for these services.

Whether you check YES or NO, you must list below the Basic Maintenance services you seek. Specify each service (e.g., basic maintenance of routers) and quantity and/or capacity (e.g., for 10 routers).

Service	Quantity and/or Capacity
BASIC MAINTENANCE FOR SERVERS	SCHOOLS
BASIC MAINTENANCE FOR ROUTERS	SCHOOLS
BASIC MAINTENANCE FOR SWITCHES	SCHOOLS
BASIC MAINTENANCE FOR WLAN DEVICES	SCHOOLS
BASIC MAINTENANCE FOR NETWORK SOFTWARE	SCHOOLS
BASIC MAINTENANCE FOR UPS	SCHOOLS
BASIC MAINTENANCE FOR INTERNAL WIRING	SCHOOLS
BASIC MAINTENANCE FOR VIDEO CONFERENCE EQUIPMENT	SCHOOLS
BASIC MAINTENANCE FOR VIDEO/VOICE OVER IP EQUIPMENT	SCHOOLS
BASIC MAINTENANCE FOR RACKS / CABINETS	SCHOOLS
BASIC MAINTENANCE FOR SWITCHBOARDS	SCHOOLS

<b>Entity Number</b> 16020045	<b>Applicant's Form Identifier</b> 2013-TEL-INT
<b>Contact Person</b> JACQUELINE DIAZ	<b>Phone Number</b> (787) 731-6100

**12** (Optional) Please name the person on your staff or project who can provide additional technical details or answer specific questions from service providers about the services you are seeking. This person does not need to be the contact person(s) listed in Item 6 nor the Authorized Person who signs this form.

Name:  
JULIO E. RODRIGUEZ

Title:  
TECHNOLOGY COORDINATOR

Telephone Number: (787) 731 - 6100

Fax Number: (787) 790 - 6920

Email Address: ERATE.SEC@GMAIL.COM

Re-enter E-mail Address: ERATE.SEC@GMAIL.COM

**13** ☐ Check this box if there are any restrictions imposed by state or local laws or regulations on how or when service providers may contact you or on other bidding procedures. Please describe below any such restrictions or procedures and/or provide an Internet address where they are posted and a contact name and telephone number.

☒ Check this box if no state and local procurement/competitive bidding requirements apply to the procurement of services sought on this Form 470.

If you are requesting services for a funding year for which a Form 470 cannot yet be filed online, include that information here.

**Block 3:**

**14. [Reserved]**

<b>Entity Number</b> 16020045	<b>Applicant's Form Identifier</b> 2013-TEL-INT
<b>Contact Person</b> JACQUELINE DIAZ	<b>Contact Phone Number</b> (787) 731-6100

**Block 4: Recipients of Service****15 Billed Entities**

List the entity/entities that will be paying the bills directly to the provider for the services requested in this form. These are known as Billed Entities. At least one line of this item must be completed. If a Billed Entity cited on your FCC Form 471 is not listed below, funding may be denied for the funding requests associated with this FCC Form 470. Attach additional pages if needed.

Entity Number	Entity Name
205385	ACADEMIA SAN JOSE ELEMENTAL
200708	Colegio San Pedro Martir
200718	Colegio Santa Cruz
200341	Colegio Santo Domingo Savio
159146	ACADEMIA DEL CARMEN
200637	Colegio Santiago Apostol
200572	Academia Santa Maria del Camino
200725	COLEGIO NUESTRA SENORA DEL CARMEN
159161	COLEGIO MARIA AUX LIADORA
200330	Colegio Nuestra Senora de la Piedad
200320	Colegio de la Sagrada Familia
200707	COLEGIO SAGRADOS CORAZONES PK-4
201218	Colegio San Antonio
205436	ACADEMIA SAN JOSE SUPERIOR
159164	COLEGIO SANTA GEMA
200577	COLEGIO BEATO CARLOS MANUEL RODRIGUES
200423	Colegio Reina de Los Angeles
200550	Academia Claret
200291	Colegio Maria Auxiliadora
200407	Academia Maria Reina
200284	Colegio San Agustin
200419	Colegio San Jose
201214	COLEGIO SAN JUAN BOSCO
159163	Colegio Santa Clara
159166	COLEGIO SANTA MARIA DEL CAM NO
200414	Colegio Angeles Custodios
200516	ACADEMIA DEL ESP RITU SANTO
200608	Centro Educativa Paula Montal
200410	Colegio Nuestra Senora de la Providencia
200433	Colegio Sagrado Corazon de Jesus
201220	COLEGIO SAN AGUSTIN
220268	COLEGIO SAN JUAN EVANGELISTA
200340	Colegio Padre Berrios
200426	Academia Nuestra Senora de La Providencia
200599	Colegio Nuestra Senora del Rosario
200709	COLEGIO SAGRADOS CORAZONES 5-12
200434	Colegio San Ignacio de Loyola
200290	ACADEMIA SANTA MONICA
157738	SUPERINTENDENCIA ESCUELAS CATOLICA ARQU DIOCESIS DE SAN JUAN
200610	Colegio de la Salle



200463 Colegio Nuestra Senora de La Merced  
 200285 Academia del Perpetuo Socorro  
 200318 ACADEMIA SAN JORGE  
 200431 Academia San Ignacio  
 200457 Colegio Nuestra Senora de Altagracia  
 200411 Colegio Nuestra Senora de Beien  
 200472 Colegio Corazon de Maria  
 200293 Colegio de la Inmaculada Concepcion  
 200906 COLEGIO MARISTA  
 205528 ACADEMIA SANTA ROSA  
 201245 COLEGIO ESPIRITU SANTO  
 159181 COLEGIO LOURDES  
 200316 Academia del Sagrado Corazon  
 200461 Colegio San Gabriel para Ninos Sordos  
 200313 Colegio San Vicente de Paul  
 200322 Academia Santa Teresita  
 200450 COLEGIO CALASANZ  
 200478 Colegio Nuestra Senora de Guadalupe  
 200448 Colegio Nuestra Senora de Lourdes  
 200418 Colegio Mater Salvatoris

Entity Number 16020045

Applicant's Form Identifier 2013-TEL-INT

Contact Person JACQUELINE DIAZ

Contact Phone Number (787) 731-6100

**Block 5: Certifications and Signature**

- 16 I certify that the applicant includes: (Check one or both.)
- ☒ a schools under the statutory definitions of elementary and secondary schools found in the **No Child Left Behind Act of 2001, 20 U.S.C. §§ 7801 (18) and (38)**, that do not operate as for-profit businesses, and do not have endowments exceeding \$50 million; and/or
- ☐ b libraries or library consortia eligible for assistance from a State library administrative agency under the Library Services and Technology Act of 1996 that do not operate as for-profit businesses and whose budgets are completely separate from any schools (including, but not limited to elementary and secondary schools, colleges, and universities).
- 17 I certify that, if required by Commission rules, all of the individual schools and libraries receiving services under this form are covered by technology plans that do or will cover all 12 months of the funding year, and that have been or will be approved by a state or other authorized body, or an SLD-certified technology plan approver, prior to the commencement of service.
- ☐ Or I certify that no technology plan is required by Commission rules.
- 18 I certify that I will post my FCC Form 470 and (if applicable) make any applicable RFP available for at least 28 days before considering all bids received and selecting a service provider. I certify that all bids submitted will be carefully considered and the bid selected will be for the most cost-effective service or equipment offering, with price being the primary factor, and will be the most cost-effective means of meeting educational needs and technology goals.
- 19 I certify that I will retain required documents for a period of at least five years after the last day of service delivered. I certify that I will retain all documents necessary to demonstrate compliance with the statute and Commission rules regarding the form for, receipt of, and delivery of services receiving schools and libraries discounts. I acknowledge that I may be audited pursuant to participation in the schools and libraries program.
- 20 I certify that the services the applicant purchases at discounts provided by 47 U.S.C. § 254 will be used primarily for educational purposes, see 47 C.F.R. § 54.500, and will not be sold, resold or transferred in consideration for money or any other thing of value, except as permitted by the Commission's rules at 47 C.F.R. § 54.513. Additionally, I certify that the entity or entities listed on this form have not received anything of value or a promise of anything of value, other than services and equipment sought by means of this form, from the service provider, or any representative or agent thereof or any consultant in connection with this request for services.
- 21 I acknowledge that support under this support mechanism is conditional upon the school(s) and/or library(ies) I represent securing access, separately or through this program, to all of the resources, including computers, training, software, internal connections, maintenance, and electrical capacity necessary to use the services purchased effectively. I recognize that some of the aforementioned resources are not eligible for support. I certify that I have considered what financial resources should be available to cover these costs.
- 22 I certify that I am authorized to procure eligible services for the eligible entity(ies). I certify that I am authorized to submit this request on behalf of the eligible entity(ies) listed on this form, that I have examined this request, and to the best of my knowledge, information, and belief, all statements of fact contained herein are true.
- 23 I certify that I have reviewed all applicable FCC, state, and local procurement/competitive bidding requirements and that I have complied with them. I acknowledge that persons willfully making false statements on this form may be punished by fine or forfeiture, under the Communications Act, 47 U.S.C. §§ 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. § 1001.
- 24 I acknowledge that FCC rules provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the schools and libraries support mechanism are subject to suspension and debarment from the program.

Entity Number 16020045

Applicant's Form Identifier 2013-TEL-INT

Contact Person JACQUELINE DIAZ

Contact Phone Number (787) 731-6100

25 Signature of authorized person: ☒

26 Date: 08/28/2012

27a Printed name of authorized person:

JACQUELINE DIAZ

27b Title or position of authorized person:

CONSORTIUM DIRECTOR

☐ Check here if the consultant in item 7 is the Authorized Person.

27c Street Address, P.O. Box, Route Number, City, State, Zip Code:

789-B CALLE JAIME DREW, URB. LOS MAESTROS

City: SAN JUAN

State: PR

Zip Code: 00923-2400

**27d** Telephone Number of Authorized Person:

(787) 731-6100

**27e** Fax Number of Authorized Person:

(787) 790-6920

**27f** E-mail Address of Authorized Person:

ERATE.SEC@GMAIL.COM

Re-enter E-mail Address:

ERATE.SEC@GMAIL.COM

**27g** Name of Authorized Person's Employer:

CONSORCIO COLEGIOS CATOLICOS DE SAN JUAN

Service provider involvement with preparation or certification of an FCC Form 470  
can taint the competitive bidding process and result in the denial of funding requests.  
For more information, refer to the Schools and Libraries area of the USAC web site at  
[www.usac.org/sl](http://www.usac.org/sl) or call the SLD Client Service Bureau at 1-888-203-8100.

Entity Number 16020045	Applicant's Form Identifier 2013-TEL-INT
Contact Person JACQUELINE DIAZ	Phone Number (787) 731-6100

NOTICE In accordance with Section 54 503 of the Federal Communications Commission's rules, certain schools and libraries ordering services that are eligible for and seeking universal service discounts must file this Description of Services Requested and Certification Form (FCC Form 470) with the Universal Service Administrator. 47 C.F.R. § 54 503(c). The collection of information stems from the Commission's authority under Section 254 of the Communications Act of 1934, as amended. 47 U.S.C. § 254. The data in the report will be used to ensure that schools and libraries comply with the competitive bidding requirement contained in 47 C.F.R. § 54 503. Schools and libraries must file this form themselves or as part of a consortium.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The FCC is authorized under the Communications Act of 1934, as amended, to collect the information we request in this form. We will use the information you provide to determine whether approving this application is in the public interest. If we believe there may be a violation or a potential violation of any applicable statute, regulation, rule or order, your application may be referred to the Federal, state, or local agency responsible for investigating, prosecuting, enforcing, or implementing the statute, rule, regulation or order. In certain cases, the information in your application may be disclosed to the Department of Justice or a court or adjudicative body when (a) the FCC; or (b) any employee of the FCC; or (c) the United States Government is a party of a proceeding before the body or has an interest in the proceeding. In addition, information provided in or submitted with this form or in response to subsequent inquiries may also be subject to disclosure consistent with the Communications Act of 1934, FCC regulations, the Freedom of Information Act, 5 U.S.C. § 552, or other applicable law.

If you owe a past due debt to the federal government, the information you provide may also be disclosed to the Department of the Treasury Financial Management Service, other Federal agencies and/or your employer to offset your salary, IRS tax refund or other payments to collect that debt. The FCC may also provide the information to these agencies through the matching of computer records when authorized.

If you do not provide the information we request on the form, the FCC may delay processing of your application or may return your form without action.

The foregoing Notice is required by the Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 44 U.S.C. § 3501, *et seq.*

Public reporting burden for this collection of information is estimated to average 3 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing, and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the reporting burden to the Federal Communications Commission, Performance Evaluation and Records Management, Washington, DC 20554.

FCC Form 470  
October 2010[New Search](#)[Return To Search Results](#)

## **EXHIBIT 2**

## FY 2016 E-rate Application Information Request

**Applicant Name:** Consorcio Colegios Catolicos Arquidiocesis De San Juan BEN 16020045

**FCC Form 471 Application Number(s):** 161058971, 161058738, 161058750

### I.

In your response, you listed NEVESEM as the selected vendor for all of your FY2016 FRNs in the above applications. However, this conflicts with the information you reported on these same applications. Please see the last page of this Word document listing the FRN and service provider information from your Form 471 applications. Please clarify the correct service provider and provide supporting documentation.

**Application Number 161058738 and its related FRN's is an application for INTERNET ACCESS services and was subject to a Bidding Process which resulted in the vendor NEVESEM being selected to provide INTERNET ACCESS service to the schools of the Consortium.**

**Application Number 161058750 and its related FRN's is an application for INTERNAL CONNECTIONS services and was subject to a Bidding Process which resulted in the vendor NEVESEM being selected to provide INTERNAL CONNECTIONS service to the schools of our Consortium.**

**Application Number 161058971 and its related FRN's is an application for TELEPHONE VOICE SERVICE. The schools in our consortium Use individual local service providers which include PUERTO RICO TELEPHONE COMPANY (CLARO), AT&T MOBILITY, WORLDNET COMMUNICATIONS, LIBERTY CABLEVISION OF PUERTO RICO AND PRIMUS TELECOMMUNICATIONS for Telephone Voice Service without a contract and on a Month-To-Month payment plan. Because Telephone Voice Service is handled individually by each school on a Month-To-Month basis, no bidding process was needed by the Consortium for this application and therefore, no single service provider was selected. All reimbursements for Telephone Voice service will be requested with 472 BEAR forms at the end of the fiscal year.**

### II.

In response to the statements made that NEVESEM is providing Free Services to participating schools in the Consorcio Colegios Catolicos Arquidiocesis De San Juan consortium, you stated: *"The RFP provided was created years ago before any changes to free services occurred. The RFP was used merely as a guideline for the services required and any questions by prospective bidders were answered by Mr. Malavé. The RFP was not used in any way to evaluate the prospective bidders in choosing the winning bid."* However, the RFP in question had a March 29, 2016 response due date. Please clarify if your response and any assistance was provided by NEVESEM relative to the your FY 2016 competitive bid process and FCC Filings.

**The RFP provided was indeed written years ago. The only changed made to the RFP was in the dates stated in the document but due to changes in personnel in the Consortium and lack of time in registering the Consortium and all our schools into the new EPC system in order to file the 470 form before the deadline, no comprehensive revision was made to the RFP before publication.**

**In any case, as stated before, the RFP was simply used as a tool for the service providers but was not used in any capacity in the selection process. The Consortium met with all interested prospective bidders either personally or by phone and any questions they had were answered promptly before the companies submitted any bids. Neither NEVESEM or any of the other prospective bidders provided any assistance in the filling of FCC forms or in the bidding process with the exception of submitting qualified bids on or before the deadline.**

**III.**

The RFP also included the following requirement: *"The service provider must provide a secondary backup Internet line to work concurrently with the primary service so the institutions always have Internet service despite any service outage that might occur with the primary Internet line."* Please note, the E-rate program does not fund backup, redundant or duplicate services. Please provide the FRN(s) that included these secondary backup internet lines. If any, please confirm this FRN(s) should be canceled.

**As stated above, the RFP was written years ago and included services which are no longer covered by erate funding. We no longer require this service as a necesseray component to accept bid requests nor do we require the service provider to provide this service.**

**IV.**

Please explain the following excerpt from the RFP: "The main priority is Internet Access due to the fact that each individual school chooses their own service provider for Telecommunication Services on a MTM basis." As previously noted, the goal of the competitive bidding process is to have as many bidders as possible respond to an FCC Form 470, RFP, or other solicitation method so that the applicant can receive better service and lower prices. One of the benefits of forming a consortium as it relates to the Schools and Libraries Program is to aggregate demand in order to lower prices and promote more efficient use of shared facilities. However, the RFP indicates that each applicant is responsible to chose their own separate Telecommunications Service Provider which defeats the intend of forming a consortium. Please explain and provide supporting documentation.

**Due to the unique requirements of Telephone Voice Service for our schools in diferent parts of the San Juan Metropolitan area and the divergent sizes of the schools, it is impractical to subject our individual schools to a single service provider who might not have the infrastructure to provide service to all our schools. As such, we allow the individual schools to choose which service provider can meet their needs since most local Telephone Voice Service providers don't use yearly contracts and bill their customerts on a Month-To-Month basis.**

**V.**

Lastly, Academia Santa Maria del Camino BEN 200572 is listed as the lone Recipient of Service on all of your FY2016 FRNs thus creating duplicative services to the same entity. Please explain and provide supporting documentation.

**There should be no duplicate services for Academia Santa Maria del Camino BEN 200572. As requested by USAC personnel, the individual applications number 161043379 and 161048074 where cancelled along with the individual applications for all the schools so that a single application for the Consortium could be filed. Academia Santa Maria del Camino BEN 200572 should only appear in application numbers 161058971 and 161058738 as a school that belongs to our Consortium. If**

**applications number 161043379 and 161048074 still appear in the system as active, they should be cancelled immediately.**

We are providing you with an opportunity to submit further documentation and/or any special circumstances that we should consider during the review.

Thank you for your cooperation and continued support of the Universal Service Program.

## Special Compliance Information Request

Page 4 of 4

471 App #	FRN	Original Service Type	SPIN #	Service Provider Name
161058971	1699137085	Voice	143025240	AT&T Mobility
161058971	1699137114	Voice	143012431	Puerto Rico Telephone Company Inc
161058971	1699137116	Voice	143012431	Puerto Rico Telephone Company Inc
161058971	1699137117	Voice	143004023	Primus Telecommunications, Inc.
161058971	1699137118	Voice	143012431	Puerto Rico Telephone Company Inc
161058971	1699137119	Voice	143012431	Puerto Rico Telephone Company Inc
161058971	1699137120	Voice	143012431	Puerto Rico Telephone Company Inc
161058971	1699137122	Voice	143012431	Puerto Rico Telephone Company Inc
161058971	1699137124	Voice	143004023	Primus Telecommunications, Inc.
161058971	1699137170	Voice	143012431	Puerto Rico Telephone Company Inc
161058971	1699137171	Voice	143012431	Puerto Rico Telephone Company Inc
161058971	1699137172	Voice	143012431	Puerto Rico Telephone Company Inc
161058971	1699137173	Voice	143012431	Puerto Rico Telephone Company Inc
161058971	1699137174	Voice	143029833	Puerto Rico Telephone Company, Inc
161058971	1699137176	Voice	143012431	Puerto Rico Telephone Company Inc
161058971	1699137177	Voice	143012431	Puerto Rico Telephone Company Inc
161058971	1699137180	Voice	143025240	AT&T Mobility
161058971	1699137181	Voice	143015562	Worldnet Telecommunications, Inc.
161058971	1699137182	Voice	143012431	Puerto Rico Telephone Company Inc
161058971	1699137183	Voice	143012431	Puerto Rico Telephone Company Inc
161058971	1699137185	Voice	143012431	Puerto Rico Telephone Company Inc
161058971	1699137186	Voice	143012431	Puerto Rico Telephone Company Inc
161058971	1699137187	Voice	143012431	Puerto Rico Telephone Company Inc
161058971	1699137189	Voice	143015562	Worldnet Telecommunications, Inc.
161058971	1699137191	Voice	143015562	Worldnet Telecommunications, Inc.
161058971	1699137269	Voice	143012431	Puerto Rico Telephone Company Inc
161058971	1699137270	Voice	143012431	Puerto Rico Telephone Company Inc
161058971	1699137271	Voice	143015562	Worldnet Telecommunications, Inc.
161058971	1699137272	Voice	143012431	Puerto Rico Telephone Company Inc
161058971	1699137275	Voice	143012431	Puerto Rico Telephone Company Inc
161058971	1699137277	Voice	143012431	Puerto Rico Telephone Company Inc
161058971	1699137278	Voice	143012431	Puerto Rico Telephone Company Inc
161058971	1699137281	Voice	143012431	Puerto Rico Telephone Company Inc
161058971	1699137283	Voice	143012431	Puerto Rico Telephone Company Inc
161058971	1699137286	Voice	143012431	Puerto Rico Telephone Company Inc
161058971	1699137287	Voice	143029833	Puerto Rico Telephone Company, Inc
161058971	1699137288	Voice	143012431	Puerto Rico Telephone Company Inc
161058971	1699137289	Voice	143036030	Liberty Cablevision of Puerto Rico LLC
161058971	1699137290	Voice	143004023	Primus Telecommunications, Inc.
161058971	1699137291	Voice	143012431	Puerto Rico Telephone Company Inc
161058971	1699137292	Voice	143012431	Puerto Rico Telephone Company Inc
161058738	1699136663	Voice	143022659	A New Vision in Educational Services & Materials (NEVESEM)
		Data Transmission and/or Internet		
161058738	1699136660	Access	143022659	A New Vision in Educational Services & Materials (NEVESEM)
		Internal		
161058750	1699136668	Connections	143022659	A New Vision in Educational Services & Materials (NEVESEM)



## FY 2016 E-rate Application Information Request

**Applicant Name:** Consorcio Colegios Católicos Arquidiócesis De San Juan BEN 16020045

**FCC Form 471 Application Number(s):** 161058971, 161058738, 161058750

### **I.**

FCC rules require applicants must be ready to accept bids once the FCC Form 470 is posted on the USAC web site. According to documentation provided, the applicant deterred potential bidder(s) by listing an Ineligible service (Secondary back up internet line) as a requirement in their RFP document. Specifically, the RFP stated *"The service provider must provide a secondary backup Internet line to work concurrently with the primary service so the institutions always have Internet service despite any service outage that might occur with the primary Internet line."* In addition, it stated that *"Bids from applicants who cannot provide this service will be rejected."* When asked to clarify this requirement, you responded as follows: *"the RFP was written years ago and included services which are no longer covered by erate funding. We no longer require this service as a necessary component to accept bid requests nor do we require the service provider to provide this service."* Although you indicated this was no longer a requirement to submit a bid, this was not made clear to all prospective bidders reviewing your RFP. As a result, it was determined that your competitive bidding process was not fair and open. Therefore, FRN 1699136660 will be denied.

## **ANSWER #1:**

We have previously stated that **NO** bidder was rejected because of this RFP requirement. Furthermore, if you refer to the RFP's Vendor Proposal explanation, it clearly states ***"The ineligible products or services being quoted of offered should not be a factor in the vendor selection process"***. The request to provide backup line responds to the need to guarantee of a continuous Internet Service, a redundancy in order to avoid service interruption despite an outage that might occur with the primary Internet line. Additionally, vendors that responded to our FCC form 470 & RFP were informed that this was no longer a requirement either when met in person or by phone.

We met with four competing companies that showed interest in submitting bids for Internet Service and Internal Connections Service to the Consortium members. These companies were as follows:

- 1.) **Everyday Data** represented by Glenda Echevarría and she was accompanied by three additional people representing the company who were Sarah Montilla Báez, José Trinidad and Robert Schmidt. This meeting was held on Wednesday, March 16, 2016 at 8:00 a.m. (see attached evidence).



- 2.) **NEVESEM (Dreyfous & Assoc)** represented by Alexander López and Sofía García. This meeting was held on Wednesday, March 16, 2016 at 11:00 a.m. (see attached evidence).



- 3.) **Avent Technologies** represented by the president of the company and accompanied by Lynn Díaz. This meeting was held on Wednesday, March 16, 2016 at 2:00 p.m. (see attached evidence).



**4.) Smart Technologies represented by Roque Pagán. This meeting was held on Wednesday, March 16, 2016 at 9:30 a.m.**

**You state in your letter that “Although you indicated this was no longer a requirement to submit a bid, this was not made clear to all prospective bidders reviewing your RFP. “ This is NOT correct. All four companies were given equal time and attention in answering their questions about the eligible services required and any question pertaining to an individual school was addressed by calling the particular school or giving the contact information necessary for the corresponding school. All four companies were satisfied with the results from the meetings held on Wednesday, March 16, 2016 and all four companies left after answering their questions to prepare their respective bid proposals.**

**All four companies submitted bids to the Consortium on or before March 29, 2016 and all four submitted bids were accepted and considered for evaluation. At NO time was the RFP used to restrict or curtail the interested companies from submitting qualifying bids. All information needed to submit a qualifying bid were presented and discussed during the meetings held on Wednesday, March 16, 2016.**

**Evaluations for all four submitted bids were made by a five person committee composed of members of the Superintendence Office and several schools. One of which represents a school that doesn’t belong to the Consortium. (see attached evidence, document: *Anejo 5all - HOJA DE ASISTENCIA DEL COMITE EVALUADOR BIDDING PROCESS 2016*)**

**All four submitted bids were evaluated by the committee members using the standard criteria recommended by USAC, those being, 1.) Prior Experience, 2.) School Individual Approach, 3.) Technical Capabilities, 4.) K-12 Educational Experience and 5.) Price. The committee members assigned values to each criteria for each submitted bid to arrive at a winning bid. As previously stated in a prior communication, the overriding criteria for the winning bid was PRICE as it should be as stated in the USAC recommendations for competitive bidding. In no way were services of lack of them used in the selection process. (See attached evidence, document: *Anejo 5al - Hojas de Evaluacion*)**

**The fact that all four companies that showed interes in submitting bids did so, and that all four bids were accepted and considered by the evaluation committee is undeniable proof that the RFP had no influence in the bidding process and that all four companies were treated equally and fairly in an open and fair bidding process.**

**II.**

FCC rules require a competitive bidding process where an applicant chooses a service provider only after defining all of the specific services eligible for support at each eligible entity. Only by doing so can applicants ensure that they are receiving the most cost-effective services because bidders have sufficient information to determine exact bid prices. Applicants are required to provide bona fide requests for service, so that potential providers can provide accurate bids. The FCC elaborated on the

meaning of “bona fide” in the Universal Service Order, where it stated that Congress “intended to require accountability on the part of schools and libraries,” which should therefore be required to “(1) conduct internal assessments of the components necessary to use effectively the discounted services they order; (2) submit complete description of services they seek so that it may be posted for competing providers to evaluate. Per the FCC’s Ysleta Order, an applicant’s FCC Form 470 must be based upon its current needs and must detail specific services sought in a manner that would allow bidders to understand the specific technologies that the applicant is seeking. In this instance, you stated that the Request for Proposal (RFP) posted with FY2016 FCC Forms 470 #160029101, 161058971 & 161058750 *“was created years ago before any changes to free services occurred. The RFP was used merely as a guideline for the services required and any questions by prospective bidders were answered by Mr. Malavé. The RFP was not used in any way to evaluate the prospective bidders in choosing the winning bid.”* However, this document included specific instructions to prospective bidders that would be deemed essential for submitting an accurate proposal. As a stand alone solitication, the referenced FCC Form 470 #160029101 failed to provide all pernant information (i.e. contacting the consortium members directly, etc.) for prospective bidders to submit accurate and valid proposals. Because you failed to provide a bona fide request for services of your current needs and failed to make all pernant information available to all potential bidders, service providers could not provide accurate bids and it was determined that you violated the FCC’s requirements for fair and open competitive bidding process, and funding is denied for FY2016 FCC Forms 471 #16158738 & 161058750.

## ANSWER #2:

**FCC Form 470 #160029101, was as detailed as the form itself and the EPC system allowed us to make it. Each school had the responsibility to inform us as per their assessment, which were their needs in order for the form to be submitted. In some cases, an internal assessment was made by Consortium personnel or any IT personnel contracted by the school. The description of services solicited, was as specific as the form itself and the EPC system allowed us to make it. As a Consortium, we solicited similar services and with the purpose of obtaining better prices and services. It has been stated that all of our institutions have different needs because of size, amount of enrolled students, geographic location, etc. However, the Form 470 was completed based on the primary need of Internet Service for each school and the components needed to do so. The RFP clearly stated the current bandwidth for each school in order for service providers to be able to make their best offer as per FCC Form 470 and any lingering questions where answered during the meetings held on Wednesday, March 16, 2016. Additionaly, some of these schools are in urgent need of equipment to provide required Internet Service and these needs were stated on the submitted FCC Form 470. Once again, NO bidder was rejected and all of them were welcomed to require additional information if interested in bidding. These additional inquiries where all addressed for all four interested parties during the meetings held on Wednesday, March 16, 2016. (See ANSWER #1 above for details pertaining to the corresponding companies and the bidding process.)**

### III.

FCC rules require a competitive bidding process where an applicant chooses a service provider only after defining all of the specific services eligible for support at each eligible entity. Only by doing so can applicants ensure that they are receiving the most cost-effective services because bidders have sufficient information to determine exact bid prices. The goal of the competitive bidding process is to have as many bidders as possible respond to an FCC Form 470, RFP, or other solicitation method so that the applicant can receive better service and lower prices. One of the benefits of forming a consortium as it relates to the Schools and Libraries Program is to aggregate demand in order to lower prices and promote more efficient use of shared facilities. When asked to provide the competitive bid documentation for all FRNs within FY 2016 FCC Forms 471 161058971 & 16158738 FRN 1699136663, no documentation was provided and you explained that *"Because Telephone Voice Service is handled individually by each school on a Month-To-Month basis, no bidding process was needed by the Consortium for this application and therefore, no single service provider was selected."* Moreover, the RFP specified that Voice services were *"Not subject to Bidding Considerations due to the fact that each individual school chooses their own service provider for Telecommunication Services on a MTM basis."* This is a violation because FCC rules require that in order to be eligible for E-rate support, all services and funding requests must be competitively bid on in accordance with the program's competitive bid rules and regulations. Since you failed to demonstrate you met this requirement, we intend to deny FRNs 1699137085, 1699137114, 1699137116, 1699137117, 1699137118, 1699137119, 1699137120, 1699137122, 1699137124, 1699137170, 1699137171, 1699137172, 1699137173, 1699137174, 1699137176, 1699137177, 1699137180, 1699137181, 1699137182, 1699137183, 1699137185, 1699137186, 1699137187, 1699137189, 1699137191, 1699137269, 1699137270, 1699137271, 1699137272, 1699137275, 1699137277, 1699137278, 1699137281, 1699137283, 1699137286, 1699137287, 1699137288, 1699137289, 1699137290, 1699137291, 1699137292 and 1699136663. For further information, please may reference the USAC website: <http://www.usac.org/sl/applicants/step01/default.aspx>.

## ANSWER #3:

**As stated before, all of our institutions have different needs because of size, amount of enrolled students, geographic location, etc. Each school selected their service provider based on these needs and did not require a bidding process due to the fact that local voice service telephone companies don't require contracted services and bill their customers on a Month-to-Month basis.**

**Originally an FCC Form 471 for Voice Services was submitted for each individual school in order to provide Voice Service funds for the local service providers that provide Month-To-Month service to our individual schools. During the month of June 2016, Mr. Gervacio Malavé, an employee of the Consortium was instructed by Mr. José Díaz from the Schools and Libraries division of USAC that the individual FCC Form 471 for each school had to be canceled and a single FCC Form 471 had to be created and submitted for the Consortium as a whole. Following Mr. José Díaz's instructions, the Consortium canceled the individual FCC Form 471's despite the fact that many on them had already been reviewed and approved and submitted a single FCC Form 471 #161058971 for the Consortium which included Voice Service for all the participating schools.**



Aparently this instruction by Mr. Díaz was in error since you consider this a violation of FCC rules. Since FCC Form 471 #161058971 was only submitted by instructions of Mr. José Díaz of USAC, we then request that the individual FCC Form 471's that were canceled last summer at his instruction be reactivated and submitted for approval and the current FCC Form 471 #161058971 that was created in error by Mr. Díaz's instruction be canceled.

The individual FCC Form 471's for Voice Service for our individual schools that need to be reactivated and submitted for review and approval are as follows:

BEN Number	School Name	FCC Form 471 App. #
200457	Colegio Nuestra Señora de la Altagracia	161047657
200414	Colegio Angeles Custodios	161047659
200411	Colegio Nuestra Señora de Belén	161047663
200450	Colegio Calasanz	161047665
200725	Colegio Nuestra Señora del Carmen	161047670
200472	Colegio Corazón de María	161049717
200516	Academia Espíritu Santo	161047675
200478	Colegio Nuestra Señora de Guadalupe	161047682
200293	Colegio De la Inmaculada	161047689
200610	Colegio De la Salle	161047695
200448	Colegio Nuestra Señora de Lourdes	161047706
159161	Colegio María Auxiliadora – CAR	161052778
200291	Colegio María Auxiliadora – SJ	161047717
200418	Colegio Mater Salvatoris	161047726
200330	Colegio La Piedad	161047735
200426	Academia Nuestra Señora de la Providencia	161047786
200410	Colegio Nuestra Señora de la Providencia	161047797
200599	Colegio Nuestra Señora del Rosario	161047804
200320	Colegio Sagrada Familia	161047806
200316	Academia Sagrado Corazón	161047819
200433	Colegio Sagrado Corazón de Jesús	161048033
200707	Colegio Sagrados Corazones (PK-4)	161048036
200709	Colegio Sagrados Corazones (5-12)	161048040
201220	Colegio San Agustín	161048042
200461	Colegio San Gabriel	161048046
201214	Colegio San Juan Bosco	161048050
200708	Colegio San Pedro Martir	161048055
200313	Colegio San Vicente de Paul	161048057
159163	Colegio Santa Clara	161048058
200718	Colegio Santa Cruz	161048061
200577	Colegio Beato Carlos Manuel Rodríguez	161048064
17005616	Superintendencia de Escuelas Católicas	161049730
159166	Colegio Santa María del Camino	161048066

159146	Academia Del Carmen	161049749
205528	Academia Santa Rosa	161048070
200637	Colegio Santiago Apostol	161049757
200423	Colegio Reina de los Angeles	161048071
200572	Academia Santa María del Camino	161048074

**IV.**

On FRN 1699136663, you are requesting \$5,700.00 for VoIP service to 38 entities. Please clarify the total number of bids received for VoIP service.

**ANSWER #4:**

**As per the Selective Competitive Bidding Request, “services being received from existing vendor can be considered a bid and should be logged as such”, we considered each current service provider’s tariff vs. offers presented by NEVESEM (and other bidders). After evaluation, we selected the one with better prices and services offered in accordance with USAC guidelines to select the best competitive price possible. In conclusion, selection was made according to USAC’s standards when selecting a service provider.**

We are providing you with an opportunity to submit further documentation and/or any special circumstances that we should consider during the review.

Thank you for your cooperation and continued support of the Universal Service Program.

**We are respectfully requesting USAC and this Review Team, to consider the previously stated reasons and responses for the issues presented. We are more than willing to provide any additional response or documentation required in order to obtain a positive response to our request. We have 38 schools that depend and rely on us for these important services to continue excellent education to their students.**

## **EXHIBIT 3**



May 19, 2017

Via E-mail: [Appeals@sl.universalservice.org](mailto:Appeals@sl.universalservice.org)

Letter of Appeal  
Schools and Libraries Program - Correspondence Unit  
30 Lanidex Plaza West  
PO Box 685  
Parsippany, NJ 07054-0685

**RE: E-Rate Appeal by Academia Espíritu Santo (BEN 200516) and Consorcio Colegios Católicos Arquidiócesis de San Juan (BEN 157738)**

This is an appeal by Academia Espíritu Santo ("Academy") and the Consorcio Colegios Católicos Arquidiócesis de San Juan ("Consortium") of five Notification of Commitment Adjustment Letters ("COMADs") issued by Universal Service Administrative Company ("USAC") on March 20, 2017. The COMADs rescind the Academy's five Funding Request Numbers (FRNs) identified below for Funding Years 2013, 2014 and 2015 (see Attachment 1). The Academy is a member of the Consortium, which prepared and filed the underlying Form 470 at issue in this appeal. We believe that USAC erred when it issued the COMADs and we respectfully request that the appeal be granted.

Name, address, telephone number, fax number, and email address of the persons who can most readily discuss this appeal with USAC:

Carmen G. Faisca-Méndez  
Academia Espíritu Santo  
PO Box 51540  
Toa Baja, PR 00950  
Tel: (787) 784-0905  
Email: [acadespi@hotmail.com](mailto:acadespi@hotmail.com)

Ana Cortés Crespo  
Consorcio Colegios Católicos Arquidiócesis de San Juan  
Calle Jaime Drew #789, Urb. Los Maestros  
San Juan, PR 00923  
Tel: (787) 731-6100  
Email: [acortes@secsj.net](mailto:acortes@secsj.net)

Information concerning our E-rate application:

Billed Entity Name: Academia Espíritu Santo  
Billed Entity Number: 200516  
FCC Registration Number: 0014286538

Funding Year: 2013  
FCC Form 470 Number: 648350001042978  
FCC Form 471 Numbers: 878350  
Funding Request Number: 2398588 (Internet Access) (funds disbursed)  
Commitment Adjustment: \$59,985.00

Funding Year: 2013  
FCC Form 470 Number: 648350001042978  
FCC Form 471 Number: 878350  
Funding Request Number: 2398570 (Telecom Services) (funds committed but not disbursed)  
Commitment Adjustment: \$3,214.73

Funding Year: 2014  
FCC Form 470 Number: 648350001042978  
FCC Form 471 Number: 963570  
Funding Request Number: 2618509 (Internet Access) (funds disbursed)  
Commitment Adjustment: \$44,820.00

Funding Year: 2015  
FCC Form 470 Number: 648350001042978  
FCC Form 471 Numbers: 1028896  
Funding Request Number: 2795192 (Internet Access) (funds committed but not disbursed)  
Commitment Adjustment: \$31,860.00

Funding Year: 2015  
FCC Form 470 Number: 648350001042978  
FCC Form 471 Number: 1038047  
Funding Request Number: 2826468 (Internet Access) (funds disbursed)  
Commitment Adjustment: \$31,860.00

## **BACKGROUND**

On August 28, 2012, the Consortium filed FCC Form 470 # 648350001042978 for Funding Year 2013 on behalf of eligible members, including the Academy. The Consortium checked the box indicating that no Request for Proposals (“RFP”) had been released and that it did not intend to do so. The FCC Form 470 # 648350001042978 served as the basis for a multi-year contract, as permitted by the program rules. After following all of the competitive bidding rules, service providers were selected and the relevant FCC Forms 471 were filed. Thereafter, USAC either funded or committed to fund the FRNs at issue.

In early 2017, USAC sent an Information Request to the Consortium in connection with Funding Year 2016. Subsequently, USAC sent an Intent to Deny Letter to the Consortium also in connection with Funding Year 2016. Those documents, and the responses from the Consortium, are enclosed as Attachment 2. As the correspondence between USAC and the Consortium indicates, those communications relate to Forms 470 #160029101, 161058971 and 161058750 for Funding Year 2016.

On March 20, 2017, USAC issued the five COMADs. The explanation for the rescission related to FRN 2398588 for Funding Year 2013 reads as follow:

After a thorough investigation, it has been determined that this funding commitment

is rescinded in full. On the FY2013 FCC Form 470, you did not check the box to indicate that you did or intend to release a Request for Proposal (RFP) for the products and/or services that you sought. It was determined that you did issue a RFP. Specifically, during a Selective Review you indicated an RFP was in fact issued and one was provided. The RFP released describes the project undertaken and contains details to inform potential bidders of the scope, location, and any other requirements for the project and services requested. FCC rules require applicants to submit a complete description of services they seek so that it may be posted for competing service providers to evaluate and formulate bids. The applicants FCC Form 470 should inform potential bidders if there is, or is likely to be, an RFP containing specific details related to particular services indicated on the form to enable all potential bidders to reasonably determine the needs of the applicant. Since you failed to inform potential service providers that an RFP was available for the products and/or services requested, you did not provide sufficient level of details to allow potential service providers an opportunity to formulate bids. As a result, you violated the competitive bidding process. The commitment has been rescinded in full and USAC will seek recovery of any improperly disbursed funds from the applicant.

The COMADs for the other FRNs have the same explanation except that they reference the appropriate Funding Year.

## **REASONS FOR APPEAL**

### **1. The Forms 470 # 160029101, 161058971 and 161058750 for Funding Year 2016 are unrelated to the underlying Form 470 that formed the basis for the FRNs for Funding Years 2013, 2014 and 2015.**

It is evident from the face of USAC's questions and the Consortium's responses that USAC's inquiry related to FCC Forms 470 #160029101, 161058971 and 161058750 for Funding Year 2016. The FRNs at issue in this appeal were submitted pursuant to FCC Form 470 # 648350001042978 filed on August 28, 2012. In other words, these are two separate competitive bidding processes. USAC should not impute alleged rule violations in connection with Funding Year 2016 to the Academy's FRNs for Funding Years 2013, 2014 and 2015 because those were two separate competitive processes. It is a denial of due process for USAC to deny FRNs associated with an FCC Form 470 that is unrelated to the FCC Form 470 that USAC inquired about. For this reason, USAC should rescind the COMADs. Should USAC have questions specific to Funding Years 2013, 2014 or 2015, it should ask those questions and give the Consortium and the Academy a meaningful opportunity to respond.

### **2. The draft document for Funding Year 2013 titled "Notice to the Vendors Interested in Submitting a Proposal" was not a Request for Proposals.**

The COMADs state that the Consortium issued RFPs for Funding Years 2013, 2014 and 2015. Specifically, the COMADs state that "*you did not check the box to indicate that you did or intend to release a Request for Proposal (RFP) for the products and/or services that you sought*" and that "*It was determined that you did issue a RFP.*" Enclosed at Attachment 3 is a document

titled “Notice to the Vendors Interested in Submitting a Proposal,” which we can only assume is the document USAC is categorizing as an “RFP.” The Consortium did not use this document as an RFP, as part of the FCC Form 470, or as establishing additional requirements not included in the Form 470 for Funding Year 2013.

Originally, the document was intended to serve as a handout that would include the same information in the Form 470 for Funding Year 2013 in a user-friendly format to facilitate conversations with service providers interesting in having an in-person meeting with Consortium personnel. The draft document was incomplete in many regards and for that reason it fails to accomplish its intended purpose. In fact, because the document was initially envisioned to serve as a handout during in person meetings, if needed, the Consortium is unable to ascertain if this draft document was shared with any potential bidders for Funding Year 2013. However, the Consortium produced the draft document to USAC during its review process of Funding Year 2016 applications in an effort to be as comprehensive and transparent as possible. Such an effort, particularly in light of the information being provided in this appeal, should not result in the punishment of Academy’s FRNs for Funding Years 2013, 2014, and 2015.

In sum, the Consortium did not use the draft document as an RFP and for that reason it appropriately checked the box indicating that it did not intend to release an RFP. Prospectively, the Consortium will not put together such handouts to eliminate any possibility that they may cause its members to risk hundreds of thousands of dollars in much needed E-Rate support for the schools in Puerto Rico. Given the economic crisis in Puerto Rico, these E-Rate funds are more critical than ever.<sup>1</sup>

### **3. The draft document did not harm the competitive bidding process.**

The FCC Form 470 # 648350001042978 for Funding Year 2013, which serves as the basis for all the FRNs being rescinded, contained sufficient detail and information to permit potential bidders to evaluate the E-rate eligible services sought to formulate bids. In fact, the Consortium received several bids, which it properly evaluated, and it ultimately selected the bids that were most cost-effective for specified services in compliance with the program’s rules. Furthermore, neither the Consortium nor its members have engaged in any type of waste, fraud or abuse.

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<sup>1</sup> As information, on May 3, 2017, after a painful recession of eleven years, the Commonwealth of Puerto Rico, with approximately \$123 billion in debt and pension obligations that far exceed the \$18 billion bankruptcy filed by Detroit in 2013, sought what is essentially bankruptcy relief under Title III of the Puerto Rico Oversight, Management and Economic Stability Act (“PROMESA”). *In re Commonwealth of Puerto Rico, Debtor*, Title III, Case No. 17-cv-01578 (May 3, 2017). This extraordinary step evidences the fiscal emergency that renders Puerto Rico unable to provide its citizens effective services, while suffering the outmigration of residents and businesses which further impacts the local economy. The Academia does not receive funding from the Puerto Rico government, as it is a private institution, but the existing economic conditions have an impact in all sectors of the economy, including private schools. These E-rate funds are needed now more than ever for the benefit of the students.

For the reasons set forth above, we respectfully request that USAC grant this appeal.

Sincerely,

**CONSORCIO COLEGIOS CATÓLICOS ARQUIDIOCESIS DE SAN JUAN and  
ACADEMIA ESPÍRITU SANTO**



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By: Ana Cortés Crespo  
Consortio Colegios Católicos Arquidiócesis de San Juan  
Calle Jaime Drew #789  
Urb. Los Maestros  
San Juan, PR 00923

May 22, 2017

Via E-mail: [Appeals@sl.universalservice.org](mailto:Appeals@sl.universalservice.org)

Letter of Appeal  
Schools and Libraries Program - Correspondence Unit  
30 Lanidex Plaza West  
PO Box 685  
Parsippany, NJ 07054-0685

**RE: E-Rate Appeal by Academia San Jose Elemental (BEN 205385) and Consorcio Colegios Católicos Arquidiócesis de San Juan (BEN 157738)**

This is an appeal by Academia San Jose Elemental (“Academy”) and the Consorcio Colegios Católicos Arquidiócesis de San Juan (“Consortium”) of three Notification of Commitment Adjustment Letters (“COMADs”) issued by Universal Service Administrative Company (“USAC”) on March 23, 2017. The COMADs rescind the Academy’s four Funding Request Numbers (FRNs) identified below for Funding Years 2013 and 2014 (see Attachment 1). The Academy is a member of the Consortium, which prepared and filed the underlying Form 470 at issue in this appeal. We believe that USAC erred when it issued the COMADs and we respectfully request that the appeal be granted.

Name, address, telephone number, fax number, and email address of the persons who can most readily discuss this appeal with USAC:

Ana Cortés Crespo  
Consorcio Colegios Católicos Arquidiócesis de San Juan  
Calle Jaime Drew #789, Urb. Los Maestros  
San Juan, PR 00923  
Tel: (787) 731-6100  
Email: [acortes@secsj.net](mailto:acortes@secsj.net)

Information concerning our E-rate application:

Billed Entity Name:	Academia San Jose Elemental
Billed Entity Number:	205385
FCC Registration Number:	0014105209
Funding Year:	2014
FCC Form 470 Number:	648350001042978
FCC Form 471 Number:	989597
Funding Request Number:	2700172 (Internet Access)
Commitment Adjustment:	\$21,240.00 (funds committed but rescinded)

Funding Year: 2014  
FCC Form 470 Number: 648350001042978  
FCC Form 471 Number: 989597  
Funding Request Number: 2700294 (Internet Access)  
Commitment Adjustment: \$5,070.00 (funds committed but rescinded)

Funding Year: 2013  
FCC Form 470 Number: 648350001042978  
FCC Form 471 Number: 879168  
Funding Request Number: 2399668 (Telecom Services)  
Commitment Adjustment: \$2,383.56 (funds committed but rescinded)

Funding Year: 2013  
FCC Form 470 Number: 648350001042978  
FCC Form 471 Number: 879168  
Funding Request Number: 2399669 (Internet Access)  
Commitment Adjustment: \$14,040.00 (funds disbursed and rescinded)

## **BACKGROUND**

On August 28, 2012, the Consortium filed FCC Form 470 # 648350001042978 for Funding Year 2013 on behalf of eligible members, including the Academy. The Consortium checked the box indicating that no Request for Proposals (“RFP”) had been released and that it did not intend to do so. The FCC Form 470 # 648350001042978 served as the basis for a multi-year contract, as permitted by the program rules. After following all of the competitive bidding rules, service providers were selected and the relevant FCC Forms 471 were filed. Thereafter, USAC either funded or committed to fund the FRNs at issue.

In early 2017, USAC sent an Information Request to the Consortium in connection with Funding Year 2016. Subsequently, USAC sent an Intent to Deny Letter to the Consortium also in connection with Funding Year 2016. Those documents, and the responses from the Consortium, are enclosed as Attachment 2. As the correspondence between USAC and the Consortium indicates, those communications relate to Forms 470 #160029101, 161058971 and 161058750 for Funding Year 2016.

On March 23, 2017, USAC issued the three COMADs. The explanation for the rescission related to FRN 2700172 for Funding Year 2014 reads as follow:

After a thorough investigation, it has been determined that this funding commitment is rescinded in full. On the FY 2014 FCC Form 470, you did not check the box to indicate that you did or intend to release a Request for Proposal (RFP) for the products and/or services that you sought. It was determined that you did issue a RFP. Specifically, during a Selective Review you indicated an RFP was in fact issued and one was provided. The RFP released describes the project undertaken and contains details to inform potential bidders of the scope, location, and any other requirements for the project and services requested. FCC rules require applicants to submit a complete description of

services they seek so that it may be posted for competing service providers to evaluate and formulate bids. The applicants FCC Form 470 should inform potential bidders if there is, or is likely to be, an RFP containing specific details related to particular services indicated on the form to enable all potential bidders to reasonably determine the needs of the applicant. Since you failed to inform potential service providers that an RFP was available for the products and/or services requested, you did not provide sufficient level of details to allow potential service providers an opportunity to formulate bids. As a result, you violated the competitive bidding process. The commitment has been rescinded in full.

The COMADs for the other FRNs have the same explanation except that they reference the appropriate Funding Year. In addition, the last sentence in the COMAD for FRN 2399669 for Funding Year 2013 reads as follow: The commitment has been rescinded in full and USAC will seek recovery of any improperly disbursed funds from the applicant.”

## **REASONS FOR APPEAL**

### **1. The Forms 470 # 160029101, 161058971 and 161058750 for Funding Year 2016 are unrelated to the underlying Form 470 that formed the basis for the FRNs for Funding Years 2013, 2014 and 2015.**

It is evident from the face of USAC’s questions and the Consortium’s responses that USAC’s inquiry related to FCC Forms 470 #160029101, 161058971 and 161058750 for Funding Year 2016. The FRNs at issue in this appeal were submitted pursuant to FCC Form 470 # 648350001042978 filed on August 28, 2012. In other words, these are two separate competitive bidding processes. USAC should not impute alleged rule violations in connection with Funding Year 2016 to the Academy’s FRNs for Funding Years 2013 and 2014 because those were two separate competitive processes. It is a denial of due process for USAC to deny FRNs associated with an FCC Form 470 that is unrelated to the FCC Form 470 that USAC inquired about. For this reason, USAC should rescind the COMADs. Should USAC have questions specific to Funding Years 2013 and 2014, it should ask those questions and give the Consortium and the Academy a meaningful opportunity to respond.

### **2. The draft document for Funding Year 2013 titled “Notice to the Vendors Interested in Submitting a Proposal” was not a Request for Proposals.**

The COMADs state that the Consortium issued RFPs for Funding Years 2013 and 2014. Specifically, the COMADs state that “*you did not check the box to indicate that you did or intend to release a Request for Proposal (RFP) for the products and/or services that you sought*” and that “*It was determined that you did issue a RFP.*” Enclosed at Attachment 3 is a document titled “Notice to the Vendors Interested in Submitting a Proposal,” which we can only assume is the document USAC is categorizing as an “RFP.” The Consortium did not use this document as an RFP, as part of the FCC Form 470, or as establishing additional requirements not included in the Form 470 for Funding Year 2013.



Originally, the document was intended to serve as a handout that would include the same information in the Form 470 for Funding Year 2013 but in an user-friendly format to facilitate conversations with service providers interested in having an in-person meeting with Consortium personnel. The draft document was incomplete in many regards and, for that reason, it was not intended to be used as originally contemplated. In fact, because the document was initially envisioned to serve as a handout during in person meetings, if needed, the Consortium is unable to ascertain if this draft document was shared with any potential bidders for Funding Year 2013. However, the Consortium produced the draft document to USAC during its review process of Funding Year 2016 applications in an effort to be as comprehensive and transparent as possible. Such an effort, particularly in light of the information being provided in this appeal, should not result in the punishment of Academy's FRNs for Funding Years 2013 and 2014.

In sum, the Consortium did not use the draft document as an RFP and for that reason it appropriately checked the box indicating that it did not intend to release an RFP. Prospectively, the Consortium will not put together such handouts to eliminate any possibility that they may cause its members to risk hundreds of thousands of dollars in much needed E-Rate support for the schools in Puerto Rico. Given the economic crisis in Puerto Rico, these E-Rate funds are more critical than ever.<sup>1</sup>

### **3. The draft document did not harm the competitive bidding process.**

The FCC Form 470 # 648350001042978 for Funding Year 2013, which serves as the basis for all the FRNs being rescinded, contained sufficient detail and information to permit potential bidders to evaluate the E-rate eligible services sought to formulate bids. In fact, the Consortium received several bids, which it properly evaluated, and it ultimately selected the bids that were most cost-effective for specified services in compliance with the program's rules. Furthermore, neither the Consortium nor its members have engaged in any type of waste, fraud or abuse.

---

<sup>1</sup> As information, on May 3, 2017, after a painful recession of eleven years, the Commonwealth of Puerto Rico, with approximately \$123 billion in debt and pension obligations that far exceed the \$18 billion bankruptcy filed by Detroit in 2013, sought what is essentially bankruptcy relief under Title III of the Puerto Rico Oversight, Management and Economic Stability Act ("PROMESA"). *In re Commonwealth of Puerto Rico, Debtor*, Title III, Case No. 17-cv-01578 (May 3, 2017). This extraordinary step evidences the fiscal emergency that renders Puerto Rico unable to provide its citizens effective services, while suffering the outmigration of residents and businesses which further impacts the local economy. The Academia does not receive funding from the Puerto Rico government, as it is a private institution, but the existing economic conditions have an impact in all sectors of the economy, including private schools. These E-rate funds are needed now more than ever for the benefit of the students.

For the reasons set forth above, we respectfully request that USAC grant this appeal.

Sincerely,

**CONSORCIO COLEGIOS CATÓLICOS ARQUIDIOCESIS DE SAN JUAN and  
ACADEMIA SAN JOSE ELEMENTAL**



---

By: Ana Cortés Crespo  
Consortio Colegios Católicos Arquidiócesis de San Juan  
Calle Jaime Drew #789  
Urb. Los Maestros  
San Juan, PR 00923

May 26, 2017

Via E-mail: [Appeals@sl.universalservice.org](mailto:Appeals@sl.universalservice.org)

Letter of Appeal  
Schools and Libraries Program - Correspondence Unit  
30 Lanidex Plaza West  
PO Box 685  
Parsippany, NJ 07054-0685

**RE: E-Rate Appeal by Colegio Angeles Custodios (BEN 200414), Academia Santa Rosa (BEN 205528), Academia Santa Maria del Camino (BEN 200572), Colegio Beato Carlos Manuel Rodrigues (BEN 200577), Colegio Lourdes (BEN 159181), Colegio Nuestra Señora de la Providencia (BEN 200410) and Consorcio Colegios Católicos Arquidiócesis de San Juan (BEN 157738)**

This is an appeal by the Consorcio Colegios Católicos Arquidiócesis de San Juan ("Consortium") and its members Colegio Angeles Custodios, Academia Santa Rosa, Academia Santa Maria del Camino, Colegio Beato Carlos Manuel Rodrigues, Colegio Lourdes, Colegio Nuestra Señora de la Providencia (collectively, "the Applicants") of the Notification of Commitment Adjustment Letters ("COMADs") issued by Universal Service Administrative Company ("USAC") on March 27, 28 and 29, 2017. The COMADs rescind the Applicants' Funding Request Numbers (FRNs) identified below for Funding Years 2013, 2014 and 2015 (see Attachment 1). The Applicants are members of the Consortium, which prepared and filed the underlying Form 470 at issue in this appeal. We believe that USAC erred when it issued the COMADs and we respectfully request that the appeal be granted.

Name and contact information of the person who can most readily discuss this appeal:

Ana Cortés Crespo  
Consorcio Colegios Católicos Arquidiócesis de San Juan  
Calle Jaime Drew #789, Urb. Los Maestros  
San Juan, PR 00923  
Tel: (787) 731-6100  
Email: [acortes@secsj.net](mailto:acortes@secsj.net)

Information concerning the E-Rate applications:

<b>Billed Entity Name:</b>	<b>Colegio Angeles Custodios</b>
Billed Entity Number:	200414
FCC Registration Number:	0014095079
Funding Year(s):	2015, 2014, 2013
FCC Form 470 Number:	648350001042978
FCC Form 471 Number(s):	1048573, 963416, 878090
Funding Request Number(s):	2863166 (Internet) 2617522 (Internet)

<b>Billed Entity Name:</b>	<b>Colegio Angeles Custodios</b>
	2398269 (Internet)    2398268 (Telecom)
Commitment Adjustment(s):	\$31,860.00 (USAC seeking recovery) \$50,220.00 (USAC seeking recovery) \$59,070.46 (USAC seeking recovery)

<b>Billed Entity Name:</b>	<b>Academia Santa Rosa</b>
Billed Entity Number:	205528
FCC Registration Number:	0014109789
Funding Year(s):	2015, 2014, 2013
FCC Form 470 Number:	648350001042978
FCC Form 471 Number(s):	1029713, 964063, 879925, 1031108
Funding Request Number(s):	2797935 (Internet) 2619703 (Internet) 2400578 (Internet) 2400576 (Telecom) 2619732 (Internet) 2803506 (Internal Connections)
Commitment Adjustment(s):	\$30,861.00 (USAC seeking recovery) \$29,700.00 (USAC seeking recovery) \$21,060.00 (USAC seeking recovery) \$1,146.85 (Funds committed but rescinded) \$7,605.00 (USAC seeking recovery) \$26,041.45 (USAC seeking recovery)

<b>Billed Entity Name:</b>	<b>Academia Santa Maria del Camino</b>
Billed Entity Number:	200572
FCC Registration Number:	0014109805
Funding Year(s):	2015, 2014, 2013
FCC Form 470 Number:	648350001042978
FCC Form 471 Number(s):	962854, 1029673, 879902, 879902
Funding Request Number(s):	2615968 (Internet) 2797775 (Internet) 2798120 (Internet) 2400591 (Telecom) 2400592 (Internet)
Commitment Adjustment(s):	\$18,900.00 (USAC seeking recovery) \$12,420.00 (USAC seeking recovery) \$5,312.50 (USAC seeking recovery) \$1,971.97 (Funds committed but rescinded) \$18,900.00 (USAC seeking recovery)

<b>Billed Entity Name:</b>	<b>Colegio Beato Carlos Manuel Rodrigues</b>
Billed Entity Number:	200577
FCC Registration Number:	0014285936
Funding Year(s):	2013
FCC Form 470 Number:	648350001042978
FCC Form 471 Number(s):	879909
Funding Request Number(s):	2400550 (Telecom)
Commitment Adjustment(s):	\$4,158.14 (Funds committed but rescinded)

<b>Billed Entity Name:</b>	<b>Colegio Lourdes</b>
Billed Entity Number:	159181
FCC Registration Number:	0014095947
Funding Year(s):	2014, 2013
FCC Form 470 Number:	648350001042978
FCC Form 471 Number(s):	962592, 885051
Funding Request Number(s):	2615582 (Internet) 2615626 (Internet) 2409618 (Internet) 2409617 (Telecom)
Commitment Adjustment(s):	\$31,860.00 (USAC seeking recovery) \$40,500.00 (USAC seeking recovery) \$7,605.00 (USAC seeking recovery) \$4,237.27 (Funds committed but rescinded)

<b>Billed Entity Name:</b>	<b>Colegio Nuestra Señora de la Providencia</b>
Billed Entity Number:	200410
FCC Registration Number:	0014095491
Funding Year(s):	2015, 2014, 2013
FCC Form 470 Number:	648350001042978
FCC Form 471 Number(s):	1030156, 1022672, 1030142, 962677, 878898
Funding Request Number(s):	2799703 (Internal Connections) 2775519 (Internet) 2799660 (Internet) 2615447 (Internet) 2399308 (Telecom) 2399309 (Internet)
Commitment Adjustment(s):	\$24,134.05 (USAC seeking recovery) \$45,708.00 (USAC seeking recovery) \$47,304.00 (Funds committed but rescinded) \$50,220.00 (USAC seeking recovery) \$3,919.75 (Funds committed but rescinded) \$58,156.00 (USAC seeking recovery)

## BACKGROUND

On August 28, 2012, the Consortium filed FCC Form 470 # 648350001042978 for Funding Year 2013 on behalf of eligible members, including the Applicants. The Consortium checked the box indicating that no Request for Proposals (“RFP”) had been released and that it did not intend to do so. The FCC Form 470 # 648350001042978 served as the basis for a multi-year contract, as permitted by the program rules. After following all of the competitive bidding rules, service providers were selected and the relevant FCC Forms 471 were filed. Thereafter, USAC either funded or committed to fund the FRNs at issue.

In early 2017, USAC sent an Information Request to the Consortium in connection with Funding Year 2016. Subsequently, USAC sent an Intent to Deny Letter to the Consortium also in connection with Funding Year 2016. Those documents, and the responses from the Consortium, are enclosed as Attachment 2. As the correspondence between USAC and the Consortium indicates, those communications relate to Forms 470 #160029101, 161058971 and 161058750 for Funding Year 2016.

On March 27, 2017, USAC issued the COMADs for Colegios Angeles Custodios, Academia Santa Rosa and Academia Santa Maria del Camino. On March 28, 2017, USAC issued the COMADs for Colegio Beato Carlos Manuel Rodrigues and Colegio Lourdes. On March 29, 2017, USAC issued the COMADs for Colegio Nuestra Señora de la Providencia. The explanation for the rescission related to the FRNs for all Funding Years is:

After a thorough investigation, it has been determined that this funding commitment is rescinded in full. On the FY [2013 or 2014 or 2015] FCC Form 470, you did not check the box to indicate that you did or intend to release a Request for Proposal (RFP) for the products and/or services that you sought. It was determined that you did issue a RFP. Specifically, during a Selective Review you indicated an RFP was in fact issued and one was provided. The RFP released describes the project undertaken and contains details to inform potential bidders of the scope, location, and any other requirements for the project and services requested. FCC rules require applicants to submit a complete description of services they seek so that it may be posted for competing service providers to evaluate and formulate bids. The applicants FCC Form 470 should inform potential bidders if there is, or is likely to be, an RFP containing specific details related to particular services indicated on the form to enable all potential bidders to reasonably determine the needs of the applicant. Since you failed to inform potential service providers that an RFP was available for the products and/or services requested, you did not provide sufficient level of details to allow potential service providers an opportunity to formulate bids. As a result, you violated the competitive bidding process. The commitment has been rescinded in full and USAC will seek recovery of any improperly disbursed funds from the applicant.

## REASONS FOR APPEAL

- 1. The Forms 470 # 160029101, 161058971 and 161058750 for Funding Year 2016 are unrelated to the underlying Form 470 that formed the basis for the FRNs for Funding Years 2013, 2014 and 2015.**

It is evident from the face of USAC's questions and the Consortium's responses that USAC's inquiry related to FCC Forms 470 #160029101, 161058971 and 161058750 for Funding Year 2016. The FRNs at issue in this appeal were submitted pursuant to FCC Form 470 # 648350001042978 filed on August 28, 2012. In other words, these are two separate competitive bidding processes. USAC should not impute alleged rule violations in connection with Funding Year 2016 to the Applicants' FRNs for Funding Years 2013, 2014 or 2015 because those were two separate competitive processes. It is a denial of due process for USAC to deny FRNs associated with an FCC Form 470 that is unrelated to the FCC Form 470 that USAC inquired about. For this reason, USAC should rescind the COMADs. Should USAC have questions specific to Funding Years 2013, 2014 and 2015, it should ask those questions and give the Consortium and the Applicants a meaningful opportunity to respond.

- 2. The draft document for Funding Year 2013 titled "Notice to the Vendors Interested in Submitting a Proposal" was not a Request for Proposals.**

The COMADs state that the Consortium issued RFPs for Funding Years 2013, 2014 and 2015. Specifically, the COMADs state that "*you did not check the box to indicate that you did or intend to release a Request for Proposal (RFP) for the products and/or services that you sought*" and that "*It was determined that you did issue a RFP.*" Enclosed at Attachment 3 is a document titled "Notice to the Vendors Interested in Submitting a Proposal," which we can only assume is the document USAC is categorizing as an "RFP." The Consortium did not use this document as an RFP, as part of the FCC Form 470, or as establishing additional requirements not included in the Form 470 for Funding Year 2013.

Originally, the document was intended to serve as a handout that would include the same information in the Form 470 for Funding Year 2013 but in a user-friendly format to facilitate conversations with service providers interested in having an in-person meetings with Consortium personnel. The draft document was incomplete in many regards and, for that reason, it was not intended to be used as originally contemplated. In fact, because the document was envisioned to serve as a handout during in-person meetings, if needed, the Consortium is unable to ascertain if this draft document was shared with any potential bidders for Funding Year 2013. However, the Consortium produced the draft document to USAC during its review process of Funding Year 2016 applications in an effort to be as comprehensive and transparent as possible. Such an effort, particularly in light of the information being provided in this appeal, should not result in the punishment of the Applicants FRNs for three Funding Years.

In sum, the Consortium did not use the draft document as an RFP and for that reason it appropriately checked the box indicating that it did not intend to release an RFP. Prospectively, the Consortium will not put together such handouts to eliminate any possibility that they may cause its members to risk hundreds of thousands of dollars in much needed E-Rate support for

the schools in Puerto Rico. Given the economic crisis in Puerto Rico, these E-Rate funds are more critical than ever.<sup>1</sup>

### **3. The draft document did not harm the competitive bidding process.**

The FCC Form 470 # 648350001042978 for Funding Year 2013, which serves as the basis for all the FRNs being rescinded, contained sufficient detail and information to permit potential bidders to evaluate the E-rate eligible services sought to formulate bids. In fact, the Consortium received several bids, which it properly evaluated, and it ultimately selected the bids that were most cost-effective for specified services in compliance with the program's rules. Furthermore, neither the Consortium nor the Applicants have engaged in any type of waste, fraud or abuse.

For the reasons set forth above, we respectfully request that USAC grant this appeal.

Sincerely,

**COLEGIO ANGELES CUSTODIOS  
ACADEMIA SANTA ROSA  
ACADEMIA SANTA MARIA DEL CAMINO  
COLEGIO BEATO CARLOS MANUEL RODRIGUES  
COLEGIO LOURDES  
COLEGIO NUESTRA SEÑORA DE LA PROVIDENCIA  
CONSORCIO COLEGIOS CATÓLICOS ARQUIDIOCESIS DE SAN JUAN**



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By: Ana Cortés Crespo  
Consortio Colegios Católicos Arquidiócesis de San Juan

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<sup>1</sup> As information, on May 3, 2017, after a painful recession of eleven years, the Commonwealth of Puerto Rico, with approximately \$123 billion in debt and pension obligations that far exceed the \$18 billion bankruptcy filed by Detroit in 2013, sought what is essentially bankruptcy relief under Title III of the Puerto Rico Oversight, Management and Economic Stability Act ("PROMESA"). *In re Commonwealth of Puerto Rico, Debtor*, Title III, Case No. 17-cv-01578 (May 3, 2017). This extraordinary step evidences the fiscal emergency that renders Puerto Rico unable to provide its citizens effective services, while suffering the outmigration of residents and businesses which further impacts the local economy. The Academia does not receive funding from the Puerto Rico government, as it is a private institution, but the existing economic conditions have an impact in all sectors of the economy, including private schools. These E-rate funds are needed now more than ever for the benefit of the students.



May 30, 2017

Via E-mail: [Appeals@sl.universalservice.org](mailto:Appeals@sl.universalservice.org)

Letter of Appeal  
Schools and Libraries Program - Correspondence Unit  
30 Lanidex Plaza West  
PO Box 685  
Parsippany, NJ 07054-0685

**RE: E-Rate Appeal by Colegio Nuestra Señora de Lourdes (BEN 200448), Colegio Nuestra Señora del Carmen (BEN 200725), Colegio Reina de Los Angeles (BEN 200423) Colegio Sagrados Corazones (BEN 200709) and Consorcio Colegios Católicos Arquidiócesis de San Juan (BEN 157738)**

This is an appeal by the Consorcio Colegios Católicos Arquidiócesis de San Juan (“Consortium”) and its members Colegio Nuestra Señora de Lourdes, Colegio Nuestra Señora del Carmen, Colegio Reina de Los Angeles and Colegio Sagrados Corazones (collectively, “the Applicants”) of the Notification of Commitment Adjustment Letters (“COMADs”) issued by Universal Service Administrative Company (“USAC”) on March 29 and 30, 2017.<sup>1</sup> The COMADs rescind the Applicants’ Funding Request Numbers (FRNs) identified below for Funding Years 2013, 2014 and 2015 (see Attachment 1). The Applicants are members of the Consortium, which prepared and filed the underlying Form 470 at issue in this appeal. We believe that USAC erred when it issued the COMADs and we respectfully request that the appeal be granted.

Name and contact information of the person who can most readily discuss this appeal:

Ana Cortés Crespo  
Consorcio Colegios Católicos Arquidiócesis de San Juan  
Calle Jaime Drew #789, Urb. Los Maestros  
San Juan, PR 00923  
Tel: (787) 731-6100  
Email: [acortes@secsj.net](mailto:acortes@secsj.net)

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<sup>1</sup> The COMADs for Colegio Nuestra Señora del Carmen, Colegio Nuestra Señora de Lourdes and Colegio Reina de Los Angeles are dated March 30, 2017. The 60-day deadline to file an appeal with USAC fell on Monday, May 29, 2017, which was a holiday (Memorial Day). Thus, under Section 1.4 of the FCC’s rules, the deadline to appeal the COMADs issued to these applicants is Tuesday, May 30, 2017.

Information concerning the E-Rate applications:

<b>Billed Entity Name:</b>	<b>Colegio Nuestra Señora de Lourdes</b>	
Billed Entity Number:	200448	
FCC Registration Number:	0014286702	
Funding Year(s):	2015, 2014, 2013	
FCC Form 470 Number:	648350001042978	
FCC Form 471 Number(s):	1028910, 1030817, 964209, 885050	
Funding Request Number(s):	2795364 (Internet) 2802287 (Internal Connections) 2620175 (Internet) 2409614 (Telecom) 2409629 (Internet)	
Commitment Adjustment(s):	\$46,620.00	USAC seeking recovery
	\$24,339.75	Funds committed but rescinded
	\$50,220.00	USAC seeking recovery
	\$5,782.54	Funds committed but rescinded
	\$50,535.00	USAC seeking recovery

<b>Billed Entity Name:</b>	<b>Colegio Nuestra Señora del Carmen</b>	
Billed Entity Number:	200725	
FCC Registration Number:	0020570743	
Funding Year(s):	2015, 2014, 2013	
FCC Form 470 Number:	648350001042978	
FCC Form 471 Number(s):	1043796, 1043817, 961505, 895299	
Funding Request Number(s):	2847193 (Internet) 2847256 (Internal Connections) 2612445 (Internet) 2612476 (Internet) 2433472 (Internet) 2433471 (Telecom)	
Commitment Adjustment(s):	\$28,431.00	USAC seeking recovery
	\$28,108.65	USAC seeking recovery
	\$16,920.00	USAC seeking recovery
	\$5,070.00	USAC seeking recovery
	\$18,720.00	USAC seeking recovery
	\$5,143.49	Funds committed but rescinded

<b>Billed Entity Name:</b>	<b>Colegio Reina de Los Angeles</b>	
Billed Entity Number:	200423	
FCC Registration Number:	0014103717	
Funding Year(s):	2015, 2014, 2013	
FCC Form 470 Number:	648350001042978	

<b>Billed Entity Name:</b>	<b>Colegio Reina de Los Angeles</b>	
FCC Form 471 Number(s):	1030100, 1030081, 963780, 894714	
Funding Request Number(s):	2799505 (Internal Connections) 2799444 (Internet) 2618726 (Internet) <b>2431883 (Internet)</b> 2618733 (Internet) 2431848 (Telecom)	
Commitment Adjustment(s):	\$13,939.15	USAC seeking recovery
	\$10,800.00	USAC seeking recovery
	\$18,900.00	USAC seeking recovery
	\$7,605.00	Funds committed but rescinded
	\$369.24	Funds committed but rescinded

**\$26,400.00 (rescinded)**

<b>Billed Entity Name:</b>	<b>Colegio Sagrados Corazones</b>	
Billed Entity Number:	200709	
FCC Registration Number:	0014293690	
Funding Year(s):	2015, 2014, 2013	
FCC Form 470 Number:	648350001042978	
FCC Form 471 Number(s):	1048610, 1044193, 987955, 892473	
Funding Request Number(s):	2863241 (Internet) 2848273 (Internal Connections) 2695568 (Internet) 2695629 (Internet) 2695593 (Internet) 2695642 (Internet) 2425568 (Telecom)	
Commitment Adjustment(s):	\$37,692.00	USAC seeking recovery
	\$25,223.75	USAC seeking recovery
	\$26,919.65	USAC seeking recovery
	\$34,860.00	USAC seeking recovery
	\$5,915.00	USAC seeking recovery
	\$5,915.00	USAC seeking recovery
	\$1,931.14	Funds committed but rescinded

## BACKGROUND

On August 28, 2012, the Consortium filed FCC Form 470 # 648350001042978 for Funding Year 2013 on behalf of eligible members, including the Applicants. The Consortium checked the box indicating that no Request for Proposals (“RFP”) had been released and that it did not intend to do so. The FCC Form 470 # 648350001042978 served as the basis for a multi-year contract, as permitted by the program rules. After following all of the competitive bidding rules, service providers were selected and the relevant FCC Forms 471 were filed. Thereafter, USAC either funded or committed to fund the FRNs at issue.

In early 2017, USAC sent an Information Request to the Consortium in connection with Funding Year 2016. Subsequently, USAC sent an Intent to Deny Letter to the Consortium also in connection with Funding Year 2016. Those documents, and the responses from the Consortium, are enclosed as Attachment 2. As the correspondence between USAC and the Consortium indicates, those communications relate to Forms 470 #160029101, 161058971 and 161058750 for Funding Year 2016.

On March 30, 2017, USAC issued the COMADs for Colegio Nuestra Señora del Carmen, Colegio Nuestra Señora de Lourdes and Colegio Reina de Los Angeles. On March 31, 2017, USAC issued the COMADs for Colegio Sagrados Corazones. The explanation for the rescission related to the FRNs is:

After a thorough investigation, it has been determined that this funding commitment is rescinded in full. On the FY [2013 or 2014 or 2015] FCC Form 470, you did not check the box to indicate that you did or intend to release a Request for Proposal (RFP) for the products and/or services that you sought. It was determined that you did issue a RFP. Specifically, during a Selective Review you indicated an RFP was in fact issued and one was provided. The RFP released describes the project undertaken and contains details to inform potential bidders of the scope, location, and any other requirements for the project and services requested. FCC rules require applicants to submit a complete description of services they seek so that it may be posted for competing service providers to evaluate and formulate bids. The applicants FCC Form 470 should inform potential bidders if there is, or is likely to be, an RFP containing specific details related to particular services indicated on the form to enable all potential bidders to reasonably determine the needs of the applicant. Since you failed to inform potential service providers that an RFP was available for the products and/or services requested, you did not provide sufficient level of details to allow potential service providers an opportunity to formulate bids. As a result, you violated the competitive bidding process. The commitment has been rescinded in full and USAC will seek recovery of any improperly disbursed funds from the applicant.

## **REASONS FOR APPEAL**

- 1. The Forms 470 # 160029101, 161058971 and 161058750 for Funding Year 2016 that were the subject of USAC's inquiry are unrelated to the underlying Form 470 that formed the basis for the FRNs for Funding Years 2013, 2014 and 2015.**

It is evident from the face of USAC's questions and the Consortium's responses that USAC's inquiry related to FCC Forms 470 #160029101, 161058971 and 161058750 for Funding Year 2016. The FRNs at issue in this appeal were submitted pursuant to FCC Form 470 # 648350001042978 filed on August 28, 2012. In other words, these are two separate competitive bidding processes. USAC should not impute alleged rule violations in connection with Funding Year 2016 to the Applicants' FRNs for Funding Years 2013, 2014 or 2015 because those were two separate competitive processes. It is a denial of due process for USAC to deny FRNs associated with an FCC Form 470 that is unrelated to the FCC Form 470 that USAC inquired about. For this reason, USAC should rescind the COMADs. Should USAC have questions

specific to Funding Years 2013, 2014 and 2015, it should ask those questions and give the Consortium and the Applicants a meaningful opportunity to respond.

**2. The draft document for Funding Year 2013 titled “Notice to the Vendors Interested in Submitting a Proposal” was not a Request for Proposals.**

The COMADs state that the Consortium issued RFPs for Funding Years 2013, 2014 and 2015, as applicable. Specifically, the COMADs state that “*you did not check the box to indicate that you did or intend to release a Request for Proposal (RFP) for the products and/or services that you sought*” and that “*It was determined that you did issue a RFP.*” Enclosed at Attachment 3 is a document titled “Notice to the Vendors Interested in Submitting a Proposal,” which the Applicants and the Consortium can only assume is the document that USAC is categorizing as an “RFP.” The Consortium did not use this document as an RFP, as part of the FCC Form 470, or as establishing additional requirements not included in the Form 470 for Funding Year 2013.

Originally, the document was intended to serve as a handout that would include the same information in the Form 470 for Funding Year 2013 but in a user-friendly format to facilitate conversations with service providers interested in having an in-person meetings with Consortium personnel. The draft document was incomplete in many regards and, for that reason, it was not intended to be used as originally contemplated. In fact, because the document was envisioned to serve as a handout during in-person meetings, if needed, the Consortium is unable to ascertain if this draft document was shared with any potential bidders for Funding Year 2013. However, the Consortium produced the draft document to USAC during its review process of Funding Year 2016 applications in an effort to be as comprehensive and transparent as possible. Such an effort, particularly in light of the information being provided in this appeal, should not result in the punishment of the Applicants FRNs for three Funding Years.

In sum, the Consortium did not use the draft document as an RFP and for that reason it appropriately checked the box indicating that it did not intend to release an RFP. Prospectively, the Consortium will not put together such handouts to eliminate any possibility that they may cause its members to risk hundreds of thousands of dollars in much needed E-Rate support for the schools in Puerto Rico. Given the economic crisis in Puerto Rico, these E-Rate funds are more critical than ever.<sup>2</sup>

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<sup>2</sup> As information, on May 3, 2017, after a painful recession of eleven years, the Commonwealth of Puerto Rico, with approximately \$123 billion in debt and pension obligations that far exceed the \$18 billion bankruptcy filed by Detroit in 2013, sought what is essentially bankruptcy relief under Title III of the Puerto Rico Oversight, Management and Economic Stability Act (“PROMESA”). *In re Commonwealth of Puerto Rico, Debtor*, Title III, Case No. 17-cv-01578 (May 3, 2017). This extraordinary step evidences the fiscal emergency that renders Puerto Rico unable to provide its citizens effective services, while suffering the outmigration of residents and businesses which further impacts the local economy. The Academia does not receive funding from the Puerto Rico government, as it is a private institution, but the existing economic conditions have an impact in all sectors of the economy, including private schools. These E-rate funds are needed now more than ever for the benefit of the students.

**3. The draft document did not harm the competitive bidding process.**

The FCC Form 470 # 648350001042978 for Funding Year 2013, which serves as the basis for all the FRNs being rescinded, contained sufficient detail and information to permit potential bidders to evaluate the E-rate eligible services sought to formulate bids. In fact, the Consortium received several bids, which it properly evaluated, and it ultimately selected the bids that were most cost-effective for specified services in compliance with the program's rules. Furthermore, neither the Consortium nor the Applicants have engaged in any type of waste, fraud or abuse.

For the reasons set forth above, we respectfully request that USAC grant this appeal.

Respectfully submitted,

**COLEGIO NUESTRA SEÑORA DE LOURDES  
COLEGIO NUESTRA SEÑORA DEL CARMEN  
COLEGIO REINA DE LOS ANGELES  
COLEGIO SAGRADOS CORAZONES  
CONSORCIO COLEGIOS CATÓLICOS ARQUIDIOCESIS DE SAN JUAN**



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By: Ana Cortés Crespo  
Consortio Colegios Católicos Arquidiócesis de San Juan



June 5, 2017

Via E-mail: [Appeals@sl.universalservice.org](mailto:Appeals@sl.universalservice.org)

Letter of Appeal  
Schools and Libraries Program - Correspondence Unit  
30 Lanidex Plaza West  
PO Box 685  
Parsippany, NJ 07054-0685

**RE: E-Rate Appeal by Colegio San Vicente de Paul (BEN 200313), Superintendencia Escuelas Católicas Arquidiócesis de San Juan (BEN 157738), and Consorcio Colegios Católicos Arquidiócesis de San Juan (BEN 157738)**

This is an appeal by the Consorcio Colegios Católicos Arquidiócesis de San Juan ("Consortium") and its members Colegio San Vicente de Paul and Superintendencia Escuelas Católicas Arquidiócesis de San Juan (collectively, "the Applicants") of the Notification of Commitment Adjustment Letters ("COMADs") issued by Universal Service Administrative Company ("USAC") on April 6 and 7, 2017. The COMADs rescind the Applicants' Funding Request Numbers (FRNs) identified below for Funding Years 2013, 2014 and 2015 (see Attachment 1). The Applicants are members of the Consortium, which prepared and filed the underlying Form 470 at issue in this appeal. We believe that USAC erred when it issued the COMADs and we respectfully request that the appeal be granted.

Name and contact information of the person who can most readily discuss this appeal:

Ana Cortés Crespo  
Consorcio Colegios Católicos Arquidiócesis de San Juan  
Calle Jaime Drew #789, Urb. Los Maestros  
San Juan, PR 00923  
Tel: (787) 731-6100  
Email: [acortes@secsj.net](mailto:acortes@secsj.net)

Information concerning the E-Rate applications:

<b>Billed Entity Name:</b>	<b>Colegio San Vicente de Paul</b>
Billed Entity Number:	200313
FCC Registration Number:	0014109185
Funding Year(s):	2015, 2014, 2013
FCC Form 470 Number:	648350001042978
FCC Form 471 Number(s):	1022443, 1030118, 1030730, 961838, 879187
Funding Request Number(s):	2774766 (Internet) 2799581 (Internet) 2803541 (Internal Connections) 2613325 (Internet) 2399658 (Internet)

<b>Billed Entity Name:</b>	<b>Colegio San Vicente de Paul</b>	
	2399656 (Telecom)	
Commitment Adjustment(s):	\$45,822.00	USAC seeking recovery
	\$47,304.00	Funds committed but rescinded
	\$31,411.75	USAC seeking recovery
	\$50,220.00	USAC seeking recovery
	\$58,887.57	USAC seeking recovery
	\$2,906.60	Funds committed but rescinded

<b>Billed Entity Name:</b>	<b>Superintendencia Escuelas Católicas Arquidiócesis de San Juan</b>	
Billed Entity Number:	157738	
FCC Registration Number:	0014109672	
Funding Year(s):	2013	
FCC Form 470 Number:	648350001042978	
FCC Form 471 Number(s):	898587	
Funding Request Number(s):	2447857 (Internet) 2447856 (Telecom)	
Commitment Adjustment(s):	\$17,850.00	USAC seeking recovery
	\$10,707.86	Funds committed but rescinded

## BACKGROUND

On August 28, 2012, the Consortium filed FCC Form 470 # 648350001042978 for Funding Year 2013 on behalf of eligible members, including the Applicants. The Consortium checked the box indicating that no Request for Proposals (“RFP”) had been released and that it did not intend to do so. The FCC Form 470 # 648350001042978 served as the basis for a multi-year contract, as permitted by the program rules. After following all of the competitive bidding rules, service providers were selected and the relevant FCC Forms 471 were filed. Thereafter, USAC either funded or committed to fund the FRNs at issue.

In early 2017, USAC sent an Information Request to the Consortium in connection with Funding Year 2016. Subsequently, USAC sent an Intent to Deny Letter to the Consortium also in connection with Funding Year 2016. Those documents, and the responses from the Consortium, are enclosed as Attachment 2. As the correspondence between USAC and the Consortium indicates, those communications relate to Forms 470 #160029101, 161058971 and 161058750 for Funding Year 2016.

On April 6, 2017, USAC issued the COMADs for Colegio San Vicente de Paul. On April 7, 2017, USAC issued the COMADs for Superintendencia Escuelas Católicas Arquidiócesis de San Juan. The explanation for the rescission related to the FRNs for all Funding Years is:

After a thorough investigation, it has been determined that this funding commitment is rescinded in full. On the FY [2013 or 2014 or 2015] FCC Form 470, you did not check the box to indicate that you did or intend to release a Request for Proposal (RFP) for the



products and/or services that you sought. It was determined that you did issue a RFP. Specifically, during a Selective Review you indicated an RFP was in fact issued and one was provided. The RFP released describes the project undertaken and contains details to inform potential bidders of the scope, location, and any other requirements for the project and services requested. FCC rules require applicants to submit a complete description of services they seek so that it may be posted for competing service providers to evaluate and formulate bids. The applicants FCC Form 470 should inform potential bidders if there is, or is likely to be, an RFP containing specific details related to particular services indicated on the form to enable all potential bidders to reasonably determine the needs of the applicant. Since you failed to inform potential service providers that an RFP was available for the products and/or services requested, you did not provide sufficient level of details to allow potential service providers an opportunity to formulate bids. As a result, you violated the competitive bidding process. The commitment has been rescinded in full and USAC will seek recovery of any improperly disbursed funds from the applicant.

## **REASONS FOR APPEAL**

### **1. The Forms 470 # 160029101, 161058971 and 161058750 for Funding Year 2016 are unrelated to the underlying Form 470 that formed the basis for the FRNs for Funding Years 2013, 2014 and 2015.**

It is evident from the face of USAC's questions and the Consortium's responses that USAC's inquiry related to FCC Forms 470 #160029101, 161058971 and 161058750 for Funding Year 2016. The FRNs at issue in this appeal were submitted pursuant to FCC Form 470 # 648350001042978 filed on August 28, 2012. In other words, these are two separate competitive bidding processes. USAC should not impute alleged rule violations in connection with Funding Year 2016 to the Applicants' FRNs for Funding Years 2013, 2014 or 2015 because those were two separate competitive processes. It is a denial of due process for USAC to deny FRNs associated with an FCC Form 470 that is unrelated to the FCC Form 470 that USAC inquired about. For this reason, USAC should rescind the COMADs. Should USAC have questions specific to Funding Years 2013, 2014 and 2015, it should ask those questions and give the Consortium and the Applicants a meaningful opportunity to respond.

### **2. The draft document for Funding Year 2013 titled "Notice to the Vendors Interested in Submitting a Proposal" was not a Request for Proposals.**

The COMADs state that the Consortium issued RFPs for Funding Years 2013, 2014 and 2015. Specifically, the COMADs state that "*you did not check the box to indicate that you did or intend to release a Request for Proposal (RFP) for the products and/or services that you sought*" and that "*It was determined that you did issue a RFP.*" Enclosed at Attachment 3 is a document titled "Notice to the Vendors Interested in Submitting a Proposal," which we can only assume is the document USAC is categorizing as an "RFP." The Consortium did not use this document as an RFP, or as part of the FCC Form 470, or as establishing additional requirements not included in the Form 470 for Funding Year 2013.

Originally, the document was intended to serve as a handout that would include the same information in the Form 470 for Funding Year 2013 but in a user-friendly format to facilitate conversations with service providers interested in having an in-person meetings with Consortium personnel. The draft document was incomplete in many regards and, for that reason, it was not intended to be used as originally contemplated. In fact, because the document was envisioned to serve as a handout during in-person meetings, if needed, the Consortium is unable to ascertain if this draft document was shared with any potential bidders for Funding Year 2013. However, the Consortium produced the draft document to USAC during its review process of Funding Year 2016 applications in an effort to be as comprehensive and transparent as possible. Such an effort, particularly in light of the information being provided in this appeal, should not result in the punishment of the Applicants FRNs for three Funding Years.

In sum, the Consortium did not use the draft document as an RFP and for that reason it appropriately checked the box indicating that it did not intend to release an RFP. Prospectively, the Consortium will not put together such handouts to eliminate any possibility that they may cause its members to risk hundreds of thousands of dollars in much needed E-Rate support for the schools in Puerto Rico. Given the economic crisis in Puerto Rico, these E-Rate funds are more critical than ever.<sup>1</sup>

### **3. The draft document did not harm the competitive bidding process.**

The FCC Form 470 # 648350001042978 for Funding Year 2013, which serves as the basis for all the FRNs being rescinded, contained sufficient detail and information to permit potential bidders to evaluate the E-rate eligible services sought to formulate bids. In fact, the Consortium received several bids, which it properly evaluated, and it ultimately selected the bids that were most cost-effective for specified services in compliance with the program's rules. Furthermore, neither the Consortium nor the Applicants have engaged in any type of waste, fraud or abuse.

For the reasons set forth above, we respectfully request that USAC grant this appeal.

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<sup>1</sup> As information, on May 3, 2017, after a painful recession of eleven years, the Commonwealth of Puerto Rico, with approximately \$123 billion in debt and pension obligations that far exceed the \$18 billion bankruptcy filed by Detroit in 2013, sought what is essentially bankruptcy relief under Title III of the Puerto Rico Oversight, Management and Economic Stability Act ("PROMESA"). *In re Commonwealth of Puerto Rico, Debtor*, Title III, Case No. 17-cv-01578 (May 3, 2017). This extraordinary step evidences the fiscal emergency that renders Puerto Rico unable to provide its citizens effective services, while suffering the outmigration of residents and businesses which further impacts the local economy. The Academia does not receive funding from the Puerto Rico government, as it is a private institution, but the existing economic conditions have an impact in all sectors of the economy, including private schools. These E-rate funds are needed now more than ever for the benefit of the students.

Respectfully submitted,

**COLEGIO SAN VICENTE DE PAUL  
SUPERINTENDENCIA ESCUELAS CATÓLICAS ARQUIDIÓCESIS DE SAN JUAN  
CONSORCIO COLEGIOS CATÓLICOS ARQUIDIOCESIS DE SAN JUAN**



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By: Ana Cortés Crespo  
Consortio Colegios Católicos Arquidiócesis de San Juan

## **EXHIBIT 4**

June 29, 2017

Via E-mail: [Appeals@sl.universalservice.org](mailto:Appeals@sl.universalservice.org)

Letter of Appeal  
Schools and Libraries Program - Correspondence Unit  
30 Lanidex Plaza West  
PO Box 685  
Parsippany, NJ 07054-0685

**RE: E-Rate Appeal by Consorcio Colegios Católicos Arquidiócesis de San Juan (BEN 157738) and its Members**

This is an appeal by Consorcio Colegios Católicos Arquidiócesis de San Juan (“Consortium”) and its members listed below (collectively, “the Applicants”) of adverse decisions by the Universal Service Administrative Company (“USAC”) rescinding funding commitments for Funding Years 2013, 2014 and 2015. The Applicants are members of the Consortium, which prepared and filed the underlying Form 470 at issue in this appeal. We believe that USAC erred when it rescinded the funding commitments and we respectfully request that the appeal be granted.

As a preliminary matter, the Applicant in this Appeal **did not** receive Notification of Commitment Adjustment Letters (“COMAD”). Instead, the Applicants learned about the rescission of the funding requests because they received Demand Payment Letters stating the following: *“You were previously sent a Notification of Commitment Adjustment Letter informing you of the need to recover funds for the Funding Request Number(s) (FRNs) listed on the Funding Commitment Adjustment Report (Report) attached to the Notification of Commitment Adjustment Letter.”* We do not know the reason why the Applicants did not receive the COMADs. We also do not know if the COMADs were issued, and if they were, whether they were sent to the correct address. The Applicants searched their records and files where they keep correspondence from USAC and were unable to find COMADs for the funding requests referenced in the Demand Payment Letters. The fact that the Applicants did receive the Demand Payment Letters demonstrates that the contact information on file with USAC is correct. If the Applicant had received the COMADS, we would have availed ourselves of our appeal rights. The Consortium is in the process of reaching out to the School and Libraries leadership to investigate this matter. However, we take this opportunity to address USAC’s concerns, as stated in the Demand Payment Letters.

Name and contact information of the person who can most readily discuss this appeal:

Ana Cortés Crespo  
Consorcio Colegios Católicos Arquidiócesis de San Juan  
Calle Jaime Drew #789, Urb. Los Maestros  
San Juan, PR 00923  
Tel: (787) 731-6100  
Email: [acortes@secsj.net](mailto:acortes@secsj.net)

Information concerning the E-Rate applications:

Entity	BEN	Demand Payment Letter Date	FY	471	FRN
Colegio Beato Carlos Manuel Rodrigues	200577	May 30, 2017	2015	1029787	2809375
Colegio Beato Carlos Manuel Rodrigues	200577	May 30, 2017	2015	1029787	2797701
Colegio Beato Carlos Manuel Rodriguez	200577	May 30, 2017	2014	972586	2647987
Colegio de la Inmaculada Concepcion	200293	May 30, 2017	2013	878452	2398688
Colegio de la Inmaculada Concepcion	200293	May 30, 2017	2014	963802	2618800
Colegio de la Inmaculada Concepcion	200293	May 30, 2017	2015	1028902	2795324
Colegio Calasanz	200450	May 30, 2017	2015	1051417	2872261
Colegio Calasanz	200450	May 30, 2017	2014	964749	2622067
Colegio Calasanz	200450	May 30, 2017	2013	878286	2398557
Colegio Nuestra Senora del Rosario	200599	May 31, 2017	2013	878904	2399298
Colegio Nuestra Senora del Rosario	200599	May 31, 2017	2015	1039066	2829801
Colegio Maria Auxiliadora	200291	May 31, 2017	2013	891887	2424328
Colegio Maria Auxiliadora	200291	May 31, 2017	2014	989988	2701196
Colegio Nuestra Senora de Altagracia	200457	May 31, 2017	2015	1029631	2797691
Colegio Nuestra Senora de Altagracia	200457	May 31, 2017	2014	962543	2615147
Colegio San Gabriel para Ninos Sordos	200461	May 31, 2017	2013	892501	2425613
Colegio San Gabriel para Ninos Sordos	200461	May 31, 2017	2013	892501	2425593
Colegio San Gabriel para Ninos Sordos	200461	May 31, 2017	2014	963756	2618609
Colegio San Gabriel para Ninos Sordos	200461	May 31, 2017	2014	963756	2618620
Colegio San Gabriel para Ninos Sordos	200461	May 31, 2017	2015	1028894	2795177
Colegio Santa Clara	159163	June 6, 2017	2013	879195	2399694
Colegio Santa Clara	159163	June 6, 2017	2014	962593	2615579
Colegio Santa Clara	159163	June 6, 2017	2015	1022107	1022107
Colegio San Pedro Martir	200708	June 6, 2017	2013	894101	2430121
Colegio San Pedro Martir	200708	June 6, 2017	2014	964381	2620876
Colegio San Pedro Martir	200708	June 6, 2017	2015	1029245	2796038
Colegio San Juan Bosco	201214	June 6, 2017	2015	1030917	2802710
Colegio San Juan Bosco	201214	June 6, 2017	2015	1029624	2797685
Colegio San Juan Bosco	201214	June 6, 2017	2014	972318	2647257
Colegio San Juan Bosco	201214	June 6, 2017	2013	879162	2399653
Colegio San Jose	200419	June 6, 2017	2013	879171	2399671
Colegio San Jose	200419	June 6, 2017	2014	989483	2699813
Colegio San Jose	200419	June 6, 2017	2015	1043687	2846886
Colegio Santa Cruz	200718	June 7, 2017	2013	879907	2400547
Colegio Santa Cruz	200718	June 7, 2017	2013	879907	2400546
Colegio Santa Cruz	200718	June 7, 2017	2014	968652	2636510
Colegio Santa Cruz	200718	June 7, 2017	2014	968652	2636497
Colegio Santa Cruz	200718	June 7, 2017	2015	1029190	2795895
Colegio Santa Cruz	200718	June 7, 2017	2015	1030731	2801986
Colegio Santiago Apostol	200637	June 7, 2017	2013	894712	2431871
Colegio Santiago Apostol	200637	June 7, 2017	2014	963995	2619603
Colegio Santiago Apostol	200637	June 7, 2017	2015	1044024	2847738
Colegio Santa Maria del Camino	159166	June 7, 2017	2013	879910	2400554
Colegio Santa Maria del Camino	159166	June 7, 2017	2014	964009	2619398

Entity	BEN	Demand Payment Letter Date	FY	471	FRN
Colegio Santa Maria del Camino	159166	June 7, 2017	2015	1022258	2774276
Colegio Maria Auxiliadora	159161	May 31, 2017	2014	963539	2617887
Colegio Maria Auxiliadora	159161	May 31, 2017	2015	1029904	2798743
Colegio Maria Auxiliadora	159161	May 31, 2017	2015	1028897	2795297
Colegio Maria Auxiliadora	159161	May 31, 2017	2013	885110	2409675
Colegio Nuestra Senora de Belen	200411	May 31, 2017	2014	989292	2699276
Colegio Nuestra Senora de Belen	200411	May 31, 2017	2013	878321	2398554
Colegio Nuestra Senora de la Piedad	200330	May 31, 2017	2015	1022965	2776230
Colegio Nuestra Senora de la Piedad	200330	May 31, 2017	2015	1024060	2779772
Colegio Nuestra Senora de la Piedad	200330	May 31, 2017	2014	979827	2669908
Colegio Nuestra Senora de la Piedad	200330	May 31, 2017	2013	892469	2425554

## BACKGROUND

On August 28, 2012, the Consortium filed FCC Form 470 # 648350001042978 for Funding Year 2013 on behalf of eligible members, including the Applicants. The Consortium checked the box indicating that no Request for Proposals (“RFP”) had been released and that it did not intend to do so. The FCC Form 470 # 648350001042978 served as the basis for a multi-year contract, as permitted by the program rules. After following all of the competitive bidding rules, service providers were selected and the relevant FCC Forms 471 were filed. Thereafter, USAC either funded or committed to fund the FRNs at issue.

In early 2017, USAC sent an Information Request to the Consortium in connection with Funding Year 2016. Subsequently, USAC sent an Intent to Deny Letter to the Consortium also in connection with Funding Year 2016. Those documents, and the responses from the Consortium, are enclosed as Attachment 1. As the correspondence between USAC and the Consortium indicates, those communications relate to Forms 470 #160029101, 161058971 and 161058750 for Funding Year 2016.

Although the Applicants do not have a record of having received COMADs, they did receive Demand Payment Letters which contain the Funding Commitment Adjustment Reports that would have been attached to the COMADs.

The explanation for the rescission related to the FRNs for all Funding Years in the Funding Commitment Adjustment Reports is:

After a thorough investigation, it has been determined that this funding commitment is rescinded in full. On the FY [2013 or 2014 or 2015] FCC Form 470, you did not check the box to indicate that you did or intend to release a Request for Proposal (RFP) for the products and/or services that you sought. It was determined that you did issue a RFP. Specifically, during a Selective Review you indicated an RFP was in fact issued and one was provided. The RFP released describes the project undertaken and contains details to inform potential bidders of the scope, location, and any other requirements for the project and services requested. FCC rules require applicants to submit a complete description of

services they seek so that it may be posted for competing service providers to evaluate and formulate bids. The applicants FCC Form 470 should inform potential bidders if there is, or is likely to be, an RFP containing specific details related to particular services indicated on the form to enable all potential bidders to reasonably determine the needs of the applicant. Since you failed to inform potential service providers that an RFP was available for the products and/or services requested, you did not provide sufficient level of details to allow potential service providers an opportunity to formulate bids. As a result, you violated the competitive bidding process. The commitment has been rescinded in full and USAC will seek recovery of any improperly disbursed funds from the applicant.

## **REASONS FOR APPEAL**

### **1. The Forms 470 # 160029101, 161058971 and 161058750 for Funding Year 2016 are unrelated to the underlying Form 470 that formed the basis for the FRNs for Funding Years 2013, 2014 and 2015.**

It is evident from the face of USAC's questions and the Consortium's responses that USAC's inquiry related to FCC Forms 470 #160029101, 161058971 and 161058750 for Funding Year 2016. The FRNs at issue in this appeal were submitted pursuant to FCC Form 470 # 648350001042978 filed on August 28, 2012. In other words, these are two separate competitive bidding processes. USAC should not impute alleged rule violations in connection with Funding Year 2016 to the Applicants' FRNs for Funding Years 2013, 2014 or 2015 because those were two separate competitive processes. It is a denial of due process for USAC to deny FRNs associated with an FCC Form 470 that is unrelated to the FCC Form 470 that USAC inquired about. For this reason, USAC should rescind the COMADs. Should USAC have questions specific to Funding Years 2013, 2014 and 2015, it should ask those questions and give the Consortium and the Applicants a meaningful opportunity to respond.

### **2. The draft document for Funding Year 2013 titled "Notice to the Vendors Interested in Submitting a Proposal" was not a Request for Proposals.**

The COMADs state that the Consortium issued RFPs for Funding Years 2013, 2014 and 2015. Specifically, the COMADs state that "*you did not check the box to indicate that you did or intend to release a Request for Proposal (RFP) for the products and/or services that you sought*" and that "*It was determined that you did issue a RFP.*" Enclosed at Attachment 2 is a document titled "Notice to the Vendors Interested in Submitting a Proposal" for Funding Year 2013 which we can only assume is the document USAC is categorizing as an "RFP." The Consortium did not use this document as an RFP, or as part of the FCC Form 470, or as establishing additional requirements not included in the Form 470 for Funding Year 2013.

Originally, the document was intended to serve as a handout that would include the same information in the Form 470 for Funding Year 2013 but in a user-friendly format to facilitate conversations with service providers interested in having an in-person meetings with Consortium personnel. The draft document was incomplete in many regards and, for that reason, it was not intended to be used as originally contemplated. In fact, because the document was envisioned to



serve as a handout during in-person meetings, if needed, the Consortium is unable to ascertain if this draft document was shared with any potential bidders for Funding Year 2013. However, the Consortium produced the draft document to USAC during its review process of Funding Year 2016 applications in an effort to be as comprehensive and transparent as possible. Such an effort, particularly in light of the information being provided in this appeal, should not result in the punishment of the Applicants FRNs for three Funding Years.

In sum, the Consortium did not use the draft document as an RFP and for that reason it appropriately checked the box indicating that it did not intend to release an RFP. Prospectively, the Consortium will not put together such handouts to eliminate any possibility that they may cause its members to risk hundreds of thousands of dollars in much needed E-Rate support for the schools in Puerto Rico. Given the economic crisis in Puerto Rico, these E-Rate funds are more critical than ever.<sup>1</sup>

### **3. The draft document did not harm the competitive bidding process.**

The FCC Form 470 # 648350001042978 for Funding Year 2013, which serves as the basis for all the FRNs being rescinded, contained sufficient detail and information to permit potential bidders to evaluate the E-rate eligible services sought to formulate bids. In fact, the Consortium received several bids, which it properly evaluated, and it ultimately selected the bids that were most cost-effective for specified services in compliance with the program's rules. Furthermore, neither the Consortium nor the Applicants have engaged in any type of waste, fraud or abuse.

For the reasons set forth above, we respectfully request that USAC grant this appeal.

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<sup>1</sup> As information, on May 3, 2017, after a painful recession of eleven years, the Commonwealth of Puerto Rico, with approximately \$123 billion in debt and pension obligations that far exceed the \$18 billion bankruptcy filed by Detroit in 2013, sought what is essentially bankruptcy relief under Title III of the Puerto Rico Oversight, Management and Economic Stability Act ("PROMESA"). *In re Commonwealth of Puerto Rico, Debtor*, Title III, Case No. 17-cv-01578 (May 3, 2017). This extraordinary step evidences the fiscal emergency that renders Puerto Rico unable to provide its citizens effective services, while suffering the outmigration of residents and businesses which further impacts the local economy. The Applicants do not receive funding from the Puerto Rico government, as they are private institution, but the existing economic conditions have an impact in all sectors of the economy, including private schools. These E-rate funds are needed now more than ever for the benefit of the students.

Respectfully submitted,

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COLEGIO SAN GABRIEL PARA NINOS SORDOS  
COLEGIO SANTA CLARA  
COLEGIO SAN PEDRO MARTIR  
COLEGIO SAN JUAN BOSCO  
COLEGIO SAN JOSE  
COLEGIO SANTA CRUZ  
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